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901:10-1-01 Definitions.

As used in Chapters 901:10-1 to 901:10-6 of the Administrative Code, the definitions contained in Chapter 903. of the Revised Code and the following definitions are applicable:

- (A) Act means the Federal Water Pollution Control Act set forth at 33 USC sections 1251 to 1387.
- (B) Administrator means the administrator of the United States environmental protection agency.
- (C) Agricultural drainage well means a class five underground injection control well that receives or has the potential to receive drainage from irrigation tail-waters, animal yards, feedlots or dairy runoff and any related agricultural field runoff. An injection well is any bored, drilled, or driven shaft or dug hole whose depth is greater than the largest surface dimension.
- (D) Agricultural stormwater discharge means runoff generated by precipitation that drains over terrain used for agriculture as defined in section 1.61 of the Revised Code that conveys manure to waters of the state, provided that the manure has been applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of nutrients in manure in compliance with the best management practices set forth in Chapter 901:10-2 of the Administrative Code.
- (E) Agronomic rate means a rate of application of nutrients from any source to the land or an amount of nutrients removed by crop based on:
 - (1) Nutrient content of the manure to be applied;
 - (2) Nutrient needs of the current or planned crops; and
 - (3) Nutrient holding capacity of the soil.
- (F) Ammonia (as N) means ammonia reported as nitrogen and is listed with approved methods of analysis in table 1B at 40 CFR 136.
- (G) Applicant means a person applying for a permit, certificate, or submitting a claim of trade secrecy to the director.
- (H) Appropriate design plan means a construction plan for a manure storage or treatment facility that has been accepted by the department as meeting best management practices and recognized industry standards for construction. This includes pre-engineered design plans for the design and construction of manure storage or treatment facilities that have been shown by the engineer, manufacturer, or distributor to conform to the requirements of Chapter 903. of the Revised Code.
- (I) Appropriate examination means an examination that has been approved by the department.
- (J) Appropriate training program means a training program that has been approved by the department.
- (K) Aquifer means an underground consolidated or unconsolidated geologic formation or series of formations that are hydraulically connected and that have the capability to receive, store, and yield useable quantities of water to wells. Aquifer does not include perched groundwater.
- (L) Application means the form and supporting documents used by an applicant to apply for an Ohio permit under this chapter.

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- (M) Average precipitation means the precipitation over the length of a storage period.
- (N) Beneficial organisms mean predators, parasites, or pathogens that, during their life cycle, are used to suppress pest organisms or are otherwise beneficial.
- (O) Best management practice (BMP) means a practice or combination of practices that is determined to be the most effective and practicable including technological, economic, and institutional controls as a means of complying with the applicable standards of Chapter 903. of the Revised Code. BMPs may include structural and nonstructural practices, conservation practices, prohibition of practices, schedules of activities, operation and maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage, or leaks, sludge or waste disposal or drainage from raw material storage.

~~Comment: For purposes of this chapter, institutional controls such as proprietary controls are those that involve legal instruments placed in the chain of title on the site of the property. Such proprietary controls include but are not limited to: easements, covenants, well drilling prohibitions, zoning restrictions and special building requirements.~~

- (P) Biosecurity refers to the policies and measures taken for protecting food supply and agricultural resources from contamination. Biosecurity also refers to those measures taken to keep disease agents out of populations, herds or groups of animals where they do not already exist. Significant areas on a facility in biosecurity are sanitation, isolation of incoming or returning animals, cleaning and disinfection and traffic control to limit disease spread between all facilities in the production unit.
- (Q) BOD5 means five-day biochemical oxygen demand and is listed with approved methods of analysis in table 1B at 40 CFR 136.
- (R) Buffer strip means setback of an area of permanent dense vegetation, often planted along the edge or the contour of a land application site or a slope of the field usually for management practices, including practices to slow the flow of water runoff or enhance water filtration, and minimize the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters. Types of buffers include filter strips, field borders, contour grass strips, vegetated cover and riparian buffers. Types of buffers include those described in "Ohio Natural Resource Conservation Service, Conservation Practice Standards Section IV, Field Office Technical Guide" which includes the following:
- (1) "Filter Strips/Areas, No. 393," June 2002;
 - (2) "Riparian Forest Buffer, No. 391," March 1997;
 - (3) "Field Border, No. 386," June 2002; and
 - (4) "Contour Buffer Strips, No. 332," June 2002.
- (S) Certificate of coverage (COC) means a certificate issued by the director based on receipt of a notice of intent to be covered by rule 901:10-4-03 of the Administrative Code. The certificate of coverage is to be kept in the site office.
- (T) Certified livestock manager means a person that has been duly certified by the department and currently holds a valid livestock manager certification.

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- (U) Cold water habitat means waters designated as coldwater aquatic life habitat by the Ohio environmental protection agency as set forth in Chapter 3745-1 of the Administrative Code.
- (V) Construction, for the purposes of stormwater construction permits, means the initial disturbance of soils associated with clearing, grading or excavating activities.
- (W) Department means the Ohio department of agriculture, the director, or the director's authorized representative.
- (X) Design capacity means the ability to house or maintain the total number of animals confined or to be confined in open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, medication pens, animal walkways, and stables.
- (Y) Dikes mean both dikes and embankments.
- (Z) Director means the director of the Ohio department of agriculture or the director's duly authorized representative.
- (AA) Discharge means to add any pollutant or combination of pollutants from a point source to waters of the state.
- (BB) Distribution and utilization methods means any method of manure management not under the control of the facility and may include, but not be limited to, land application, composting, vermiculture, and alternative fuel source uses.
- (CC) Ditch means an excavation, either dug or natural, for the purpose of drainage or irrigation.
- (DD) Diversion means a channel constructed across the slope for the purpose of intercepting surface runoff.
- (EE) Draft action means a written statement that gives the director's intention with respect to the issuance of any permit, including a NPDES permit or a general permit, concerning which persons authorized by regulation or by section 903.09 of the Revised Code may file comments or request a public meeting, but which will not be the subject of an adjudication hearing before the director.
- (FF) Drinking water source protection area for a public water system means:
- (1) For a public water system using groundwater, the surface and subsurface area surrounding the well(s) of the public water system that will provide water from an aquifer to the well(s) and that is delineated or endorsed by the Ohio environmental protection agency under Ohio's wellhead protection and source water assessment and protection programs; or
 - (2) For a public water system using surface water, the drainage area contributing surface water runoff to the water intakes of the public water system that is delineated or endorsed by the Ohio environmental protection agency under Ohio's source water assessment and protection program.
- (GG) Effluent limitation means any restriction imposed by the director on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the state.
- (HH) Fabricated structure means a type of manure storage or treatment facility constructed of engineered, man-made materials such as cast-in-place reinforced concrete, pre-cast concrete, masonry, timber, steel, fiberglass or plastic but does not mean a manure storage pond, a manure treatment lagoon or any of the components of

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either a manure storage pond or manure treatment lagoon such as described in paragraph (A)(9)(c)(ii) of rule 901:10-2-06 of the Administrative Code. A fabricated structure may contain either solid or liquid manure.

- (II) Fact sheet means the statement of facts provided for in paragraph (A) of rule 901:10-6-05 of the Administrative Code relative to issuance of a NPDES permit.
- (JJ) Field surface furrow means an area of short-term low-gradient non-erosive concentrated surface water runoff which occurs during or shortly after precipitation events and is not a river, stream, ditch or grassed waterway. Field surface furrows are areas that are normally planted with crops each year.
- (KK) Fecal coliform means fecal coliform bacteria and is listed with approved methods of analysis in table 1A at 40 CFR 136.3.
- (LL) Floodplain means the area designated by the federal emergency management agency adjoining any river, stream, watercourse or lake that has been or may be covered by floodwater.
- (MM) Floodway means the channel of a river or watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable rise as designated by the federal emergency management agency, not exceeding one foot.
- (NN) Grassed waterway means a natural or constructed channel that is shaped or graded to required dimensions and established with suitable vegetation to filter and convey runoff from fields, terraces, diversions or other concentrated water runoff without causing erosion or flooding.
- (OO) Ground water means any water below the surface of the earth in a zone of saturation, but does not include perched water.
- (PP) Injection means the placement of manure beneath the surface of the soil in the crop root zone but not extending beyond the boundary of a land application site and using equipment specifically designed for this purpose.
- (QQ) Installation means the permanent fabrication, erection or installation of a manure storage or treatment facility or manure control equipment at the location where the manure storage or treatment facility or manure control equipment is intended to be used. The term does not include the following:
 - (1) The dismantling of existing equipment and control devices;
 - (2) The ordering of equipment and control devices;
 - (3) Off-site fabrication; and
 - (4) Site preparation.
- (RR) Integrated pest management means a sustainable approach to pest management that combines the use of prevention, avoidance, monitoring and suppression strategies that minimizes and reduces the activity and presence of insects and rodents and keeps such activity and presence below economically damaging levels, minimizing chemical use to reduce pest resistance and the harmful effects of pest control on human health and environmental resources. Integrated pest management includes management, biological controls and the judicious use of chemical controls.
- (SS) Karst terrain means an area where karst topography, including the characteristic surface and subterranean features, has developed as the result of dissolution of limestone, dolomite or other soluble rock.

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Characteristic physiographic features present in karst terrains may include the following:

- (1) Sinkholes;
- (2) Sinking streams;
- (3) Caves.

(TT) Land application areas means land under the control of a concentrated animal feeding operation, whether it is owned, rented, leased or otherwise under the control of the owner or operator, to which manure, or process wastewater from the production area is or may be applied.

(UU) Liquid manure means manure containing more than or equal to eighty percent liquid.

(VV) Livestock manure broker means a person who is in the business of buying, selling, or land applying manure.

(WW) Livestock manure applicator means a person who is in the business of transporting and land applying manure.

(XX) Manure application means the placement of manure within the boundaries of a land application site by:

- (1) Spraying or spreading onto the land surface;
- (2) Injection below the land surface in the crop root zone using equipment specifically designed for this purpose; or
- (3) Incorporation into the soil by means of the mixing of manure with the surface soil using standard agricultural practices, such as tillage.

(YY) Manure management plan (MMP) means a written plan that adheres to the terms in paragraph (A)(1) of rule 901:10-2-07 of the Administrative Code.

~~{Comment: A person preparing a manure management plan is advised to refer to guidance on comprehensive nutrient management plans that have similar components for manure management plans. Comprehensive nutrient management plan standards are prepared and published by the "Natural Resource Conservation Service," an agency of the United States department of agriculture. However, the scope of comprehensive nutrient management plans exceeds the requirements of Chapter 903. of the Revised Code and rules of the chapter.}~~

(ZZ) Manure residuals means settled manure solids combined with varying amounts of water and dissolved materials that remain after some form of treatment.

(AAA) Manure spill means any unexpected, unintended, abnormal or unapproved dumping, leakage, drainage, seepage, discharge, release or other loss of manure. The term does not include releases to impermeable surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

(BBB) Manure storage area means area of an animal feeding facility used by the owner or operator for the storage of manure produced by the facility. Manure storage areas include, but are not limited to, manure storage or treatment facilities, lagoons, runoff ponds, storage sheds, stockpiles, stacking areas, under house or pit storages, liquid impoundments, and composting piles.

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(CCC) Manure storage or treatment facility means any excavated, diked or walled structure or combination of structures designed for the biological stabilization, holding or storage of manure. These facilities include manure storage ponds, manure treatment lagoons, fabricated structures, lagoons, manure storage sheds, under house or pit storages, and composting areas.

(DDD) Manure storage pond means a type of manure storage or treatment facility consisting of an earthen impoundment made by constructing an embankment and/or excavating a pit, the purpose of which is to store or settle manure. A manure storage pond contains liquid manure.

(EEE) Manure treatment lagoon means a type of manure storage or treatment facility consisting of an earthen impoundment made by constructing an embankment and/or excavating a pit, the purpose of which is to biologically treat manure. A manure treatment lagoon contains liquid manure.

(FFF) Modification means one or more of the following:

- (1) For NPDES permits, permits to install, and permits to operate: A material and substantial alteration of the facility including an increase of the number of animals that exceed the design capacity of an existing facility by ten per cent or more in excess of the design capacity set forth in the current permit, provided that in no case during a five year period shall the facility's or facility's capacity be modified to increase by more than ten per cent in the aggregate.
- (2) For permits to install and permits to operate: Any structural change to the facility that will alter compliance with siting criteria as set forth in rule 901:10-2-02 of the Administrative Code;
- (3) For permits to operate: Any changes to the insect and rodent control plan approved by the director except as set forth in paragraphs (E) and (F) in rule 901:10-2-19 of the Administrative Code;
- (4) For NPDES permits, permits to install, and permits to operate: Changes described in rule 901:10-1-09 of the Administrative Code as being grounds for modification of the permit type; or
- (5) For NPDES permits, permits to install, and permits to operate: Changes to the manure storage or treatment facility that result from an expansion of the existing facility by ten per cent or more in excess of treatment or storage capacity.

(GGG) Multi-year phosphorus application means phosphorus applied to a field in excess of the crop needs for that year in accordance with appendix e of rule 901:10-2-14 of the Administrative Code.

(HHH) Neighboring residence means any occupied permanent dwelling acquired by its current owner prior to the application for a permit to install a new animal feeding operation or prior to the initial construction of an animal feeding operation for which an application for a permit to install expansion or modification has been submitted. A neighboring residence does not include any dwelling owned by the owner or operator of the production area of the facility at the time the permit to install application is submitted.

(III) New discharger means any building, structure, facility, or installation:

- (1) From which there is or may be a discharge of pollutants;
- (2) That did not commence the discharge of pollutants at a particular site prior to August 13, 1979;
- (3) Which is not a new source; and
- (4) Which has never received a final effective NPDES permit for discharges at that site.

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(JJJ) New source is defined at 40 CFR 122.2 and new source criteria are as defined at 40 CFR 122.29(b).

(KKK) Nitrate (as N) means nitrate reported as nitrogen and is listed with approved methods of analysis in table 1B at 40 CFR 136.

(LLL) Nutrient means, for purposes of Chapter 903. of the Revised Code, nitrogen or phosphorus.

(MMM) Operating record means the written record of a facility and other activities conducted under a permit to operate maintained by the owner or operator as found in rule 901:10-2-16 of the Administrative Code.

(NNN) Owner or operator, for the purposes of sections 903.02, 903.03, 903.04 and 903.05 of the Revised Code, means the person that owns or operates the manure storage or treatment facility or the concentrated animal feeding facility or concentrated animal feeding operation or major concentrated animal feeding facility as found in divisions (M), (N), (O), and (EE) of section 903.01 of the Revised Code.

(1) Owner means the person who has the right to control or in fact controls management of the facility or the selection of officers, directors, or managers of the facility or holds or is able to control, either directly or through a holding company or subsidiary, by means of any of the following:

- (a) The person holds at least twenty-five per cent of the equity of the facility which is a business concern that is a publicly traded corporation; or
- (b) The person is any other business concern not covered in paragraph (NNN)(1)(a) of this rule and holds at least fifty per cent of the equity of the facility; or
- (c) The person has provided a loan to the facility with provisions for the right to control management of the facility or actual control of the facility or the selection of officers, directors, or managers of the facility.

(2) Types of ownership may include the any of the following:

- (a) "Business concern" means any corporation, association, firm, partnership, trust, or other form of commercial organization.
- (i) "Sole proprietorship" means a form of business concern, other than a partnership or corporation, in which one person owns all the assets and is solely liable for all the debts of the business. Sole proprietor includes any individual or entity in which an individual is an applicant or permittee or prospective owner.
- (ii) "Partner" means a business concern where any person holding a position as, or similar to, a general partner, as defined in division (E) of section 1782.01 of the Revised Code, or a limited partner, as defined in division (F) of section 1782.01 of the Revised Code, or persons who share profits and liability and have management powers of a partnership, as partnership is defined in section 1775.05 of the Revised Code.
- (iii) "Publicly traded corporation" means a business concern that is a corporation:
 - (a) Whose shares are listed on a national securities exchange; or
 - (b) Whose shares are regularly quoted in an over-the-counter market by one or more members of a national or affiliated securities association; or

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(c) With fifty or more shareholders.

(b) "Equity" means any ownership interest in a business concern, including sole proprietorship, the shares of a partner, and stock in a corporation.

(c) "Loans" means notes, mortgages, or financial loans of any kind, secured or unsecured, unless held by a chartered lending institution.

(3) "Operator" means the person responsible for the direct control or overall operations of a facility, and whose duties or responsibilities involve, in whole or part, the management of the facility and the exercise of independent or discretionary judgment. An operator may include the person who has the right to control or in fact controls management of the facility or the selection of officers, directors, or managers of the facility.

(OOO) Overflow means the discharge of manure resulting from the filling of manure storage or treatment facilities beyond the point at which no more manure or stormwater can be contained by the facilities.

(PPP) Past violations for purposes of rule 901:10-5-04 of the Administrative Code means violations of Chapter 903. of the Revised Code and rules promulgated thereunder that have occurred on more than one occasion in the past five years.

(QQQ) Pests means detrimental insects and rodents.

(RRR) Phosphorus (as P) means the same as phosphate in this chapter.

(SSS) Point source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, large concentrated animal feeding operation, medium concentrated animal feeding operation, small concentrated animal feeding operation, landfill leachate collection system, vessel or other flooding craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

(TTT) Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et. seq.), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

(1) Sewage from vessels; or

(2) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(UUU) Professional engineer means a person qualified to practice engineering according to the provisions of Chapter 4733. of the Revised Code and is presently registered by Ohio's board of registration for professional engineers and land surveyors.

(VVV) Precipitation event means:

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- (1) A ten year, twenty-four hour rainfall event with a probable recurrence interval of once in ten years, or
- (2) A twenty-five year, twenty-four hour rainfall event with a probable recurrence interval of once in twenty-five years; or
- (3) A one-hundred year, twenty-four hour rainfall event.
- (4) The terms ten year, twenty-four hour precipitation event, twenty-five year, twenty-four hour precipitation event, and one-hundred year, twenty-four hour precipitation event shall mean a precipitation event with a probable recurrence interval of once in ten years or twenty-five years or one hundred years, respectively, as defined by the national weather service in technical paper number forty, rainfall frequency atlas of the United States, May 1961, and subsequent amendments or equivalent regional or state precipitation probability information.

(WWW) Public water system, or PWS, means a system which provides water for human consumption through pipes or other constructed conveyances for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. Such term includes any collection, treatment, storage and distribution facilities under the control of the operator of such system and used primarily in connection with such system, any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system and any water supply system serving an agriculture labor camp, as defined in section 3733.41 of the Revised Code. A public water system is either a "community water system" or a "non-community water system".

(1) Community water system or CWS means a public water system which serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents.

(2) Non-community water system or NCWS means a public water system that is not a community water system.

(a) Non-transient non-community water system or NTNCWS means a public water system that is not a community water system and that regularly serves at least twenty-five of the same persons over six months per year.

(b) Transient non-community water system or TNCWS means a non-community public water system that does not regularly serve at least twenty-five of the same persons over six months of the year.

(XXX) Reasonably available means a person that is within a two hour drive of the facility and is available by telephone or by electronic communication.

(YYY) Seasonal salmonid habitat means rivers, streams and embayments designated a seasonal salmonid aquatic life habitat by the Ohio environmental protection agency as set forth in Chapter 3745-1 of the Administrative Code.

(ZZZ) Setback means a specified distance from surface waters, wells, neighboring residences, or potential conduits to surface waters where manure, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to: Open tile line intake structures, sinkholes, and agricultural well heads.

(AAAA) Solid manure means manure containing greater than twenty per cent total solids.

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- (BBBB) Sole source aquifer means an aquifer designated by the United States environmental protection agency as the sole or principal source of drinking water for a given aquifer service area.
- (CCCC) Soil means unconsolidated, erodible earth material consisting of minerals or organics.
- (DDDD) Soil horizon means a layer of soil, approximately parallel to the soil surface, with characteristics produced by soil-forming processes.
- (EEEE) Staging or staging area means the land application area used for placement of manure at the time of delivery in such a manner as to facilitate land application within fifteen days at that site. Staging includes the transfer of liquid manure from transport vehicles to land application equipment.
- (FFFF) Stockpile or stockpile area means field placement of the amount of manure to be used at a land application area.
- (GGGG) Storage or storage period means the length of time anticipated between manure clean-out events provided that manure storage does not mean any form of manure containment for a period of fourteen days or less.
- (HHHH) Substantial compliance when referring to compliance with the provisions of a permit, means following the effluent limitations and best management practices set forth in the permit.
- (IIII) Surface waters of the state means all streams, lakes, ponds, marshes, watercourses, wetlands, springs, drainage systems, and other bodies or accumulations of surface water, natural or artificial, that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.
- (JJJJ) Total coliform means all coliform bacteria and is listed with approved methods of analysis in table 1A at 40 CFR 136.3.
- (KKKK) Total dissolved solids means nonfilterable residue and is listed with approved methods of analysis in table 1B at 40 CFR 136.
- (LLLL) Trade secrets means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, improvement, business information or plans, financial information, listing of names, addresses, or telephone numbers that satisfies both of the following:
- (1) It derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable through proper means by other persons who can obtain economic value from its disclosure or use.
 - (2) The person claiming the secrets has taken reasonable efforts under the circumstances to maintain secrecy.
- (MMMM) Uncovered means any manure storage or treatment facility that allows exposure of manure to precipitation events or to the run-on or run-off from precipitation events.
- (NNNN) Variance means a type of permit modification that applies to NPDES permits.
- (OOOO) Zoonotic diseases means illnesses that can be transmitted between humans and animals.
- (PPPP) “40 C.F.R.” means Title 40 of the Code of Federal Regulations effective July 1, 2010.

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901:10-1-02 General administrative requirements for permits.

(A) Requirements for an individual permit to install, an individual permit to operate, or an individual NPDES permit:

- (1) A person who is required to obtain both a permit to install pursuant to section 903.02 of the Revised Code and a permit to operate pursuant to section 903.03 of the Revised Code shall submit both applications for these permits simultaneously.
- (2) A facility that is required to obtain both an NPDES permit and a permit to operate shall be issued a single permit to operate incorporating the terms and conditions established by both permits. The permit to operate expressly shall designate the terms and conditions required under the NPDES permit as federally enforceable. For purposes of Chapters 901:10-1 to 901:10-6 of the Administrative Code, the term NPDES permit, NPDES operation, and concentrated animal feeding operation is an animal feeding facility that is subject to the NPDES permit as established in section 402 of the Act and includes the renewal of such a permit. NPDES permit includes the federally enforceable provisions of a permit to operate into which NPDES permit provisions have been incorporated.

~~Comment:~~ A person who seeks coverage by a general permit must refer to rules 901:10-3-11, and 901:10-4-01 to 901:10-4-05 of the Administrative Code for a general permit to operate, general NPDES permit or general NPDES stormwater permit.

- (3) An application for a permit to install, a permit to operate, or a NPDES permit to be deemed complete, must include:
 - (a) All required information as set forth in Chapter 901:10-2 and, if applicable, Chapter 901:10-3 of the Administrative Code, and shall accompany the application; and
 - (b) An appropriate fee as stated in rule 901:10-1-04 of the Administrative Code.
 - (c) Any supplemental information which is completed to the satisfaction of the director.
 - (d) If the application and accompanying materials submitted to the department is deemed to be incomplete, the department will notify the owner or operator with instructions as to what is missing or what needs to be completed.
- (4) An application for a permit to install, permit to operate or NPDES permit shall include information on ownership and background, including but not limited to, the following information:
 - (a) The name and address of the applicant, of all partners if the applicant is a partnership or all officers and directors if the applicant is a corporation, and of any other person who has a right to control or in fact controls management of the applicant or the selection of officers, directors or managers of the applicant;
 - (b) When required by section 903.05 of the Revised Code, each application for a permit to install or permit to operate must contain information on a record of past compliance if the applicant has not operated a concentrated animal feeding facility in Ohio for at least two of the five years immediately preceding the submission of the application. If the permit to install and the permit to operate are submitted simultaneously as provided in division (A)(9) of section 903.10 of the Revised Code, then

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the following information is sufficient to satisfy the requirements of the permits:

- (i) A listing of all concentrated animal feeding facilities that the owner or operator of the proposed new or modified concentrated animal feeding facility has operated or is operating in Ohio;
 - (ii) A listing of the concentrated animal feeding facilities that the owner or operator has operated or is operating elsewhere in the United States and that are regulated under the Federal Water Pollution Control Act together with a listing of the concentrated animal feeding facilities that the owner or operator has operated or is operating outside the United States;
 - (iii) A listing of all administrative enforcement orders issued to the owner or operator, all civil actions in which the owner or operator was determined by the trier of fact to be liable in damages or was the subject of injunctive relief or another type of civil relief, and all criminal actions in which the owner or operator pleaded guilty or was convicted during the five years immediately preceding the submission of the application in connection with any violation of the federal Water Pollution Control Act, the Safe Drinking Water Act, as defined in section 6109.01 of the Revised Code or any other applicable state laws pertaining to environmental protection that was alleged to have occurred or to be occurring at any concentrated animal feeding facility that the owner or operator has operated or is operating in the United States or with any violation of the environmental laws of another country that was alleged to have occurred or to be occurring at any concentrated animal feeding facility that the owner or operator has operated or is operating outside of the United States. The lists of concentrated animal feeding facilities operated by the owner or operator within or outside this state or outside the United States shall include, respectively, all such facilities operated by the owner or operator during the five year period immediately preceding the submission of the application.
- (5) In the case of an application for a major concentrated animal feeding facility, written proof that the person who would be responsible for the supervision of the management and handling of manure at the facility has been issued a livestock manager certification in accordance with section 903.07 of the Revised Code or will obtain a livestock manager certification prior to applying any manure to land.
- (6) In the case of an application that meets the criteria established in sections 307.204 and 505.266 of the Revised Code, written statements from the board of county commissioners of the county and the board of township trustees of the township in which the facility will be located, certifying that, in accordance with those sections, the applicant has provided the boards with the required written notification and that final recommendations, if any, regarding improvements and costs of improvements have been made by the boards.
- (7) An application for a permit to install a concentrated animal feeding facility shall contain documentation or correspondence that verifies that the owner or operator has notified local officials, including boards of county commissioners, county engineer, and boards of township trustees to address infrastructure needs and financing of that infrastructure which includes but is not limited to:
- (a) The anticipated travel routes of motor vehicles to and from the facility;
 - (b) Notwithstanding any exemptions that may be applicable under section 5577.042 of the Revised Code, the owner or operator shall provide the anticipated number and weights of motor vehicles traveling to and from the facility with an estimated maximum overall gross weight of vehicles upon the road surface;

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- (c) Operational needs of the proposed facility for access to roads and location of such access; and
 - (d) Operational needs of the proposed facility for access to tiles, culverts, off-site drainage, rights-of-way for manure transport.
- (8) A certification statement as follows: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. "Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information the information is, to the best of my knowledge and belief, true and accurate and complete. I am aware there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."
- (9) A complete application is required.
- (a) Any person who requires a permit shall complete, sign, and submit to the director an application for each permit required and a copy of that application for each permit required.
 - (b) The director shall not begin the processing of a permit until the applicant has fully complied with the application requirements for the permit.
 - (c) Permit applications must comply with the signature and certification requirements of this rule.
 - (d) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied in accordance with division (F) of section 903.09 of the Revised Code and appropriate enforcement actions may be taken under applicable provisions of the Chapter 903. of the Revised Code and rules promulgated there under.
- (B) The owner or operator shall maintain a copy of the current permit to install, permit to operate or NPDES permit issued by the department at the facility site office.
- (C) Duration and renewal.
- (1) Permit to install.
 - (a) A permit to install shall expire after twenty-four months unless the applicant has undertaken a continuing program of construction or has entered into a binding contractual obligation to undertake and complete a continuing program of construction within a reasonable time.
 - (b) The director may extend the expiration of a permit to install upon request of the applicant. An extension, if approved, will be valid for twelve months from the previous expiration date of the permit to install.
 - (c) Any further extensions are at the discretion of the director.
 - (2) Permit to operate.
 - (a) A permit to operate shall be valid for a period of five years.
 - (b) A permit to operate may be renewed. An application for renewal of a permit to operate shall be submitted to the director at least one hundred eighty days prior to the expiration date of the permit to operate and shall comply with the requirements governing application for permits to operate that are

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established by rules, including rules 901:10-2-07 to 901:10-2-20 of the Administrative Code.

(D) NPDES permit.

- (1) Any person who discharges or proposes to discharge pollutants and who does not have an effective permit, except persons covered by a general permit under Chapter 901:10-4 of the Administrative Code, must submit a complete application to the director in accordance with this rule and Chapter 901:10-2 of the Administrative Code.
- (2) Any person proposing a new discharge shall submit an application at least one hundred and eighty days before the date on which the discharge is to commence unless permission for a later date has been granted by the director. Facilities proposing a new discharge of storm water associated with industrial activity shall submit an application one hundred and eighty days before that facility commences industrial activity which may result in a discharge of storm water associated with that industrial activity.
- (3) When a concentrated animal feeding operation is owned by one person but is operated by another person, the operator may obtain a permit.
- (4) Facilities undergoing construction activities that include clearing, grading, excavating, grubbing and/or filling activities that result in the disturbance of one or more acres shall submit applications at least ninety days before the date on which construction is to commence. Different submittal dates may be required under the terms of applicable general permits.
- (5) Applicants for concentrated animal feeding operations must submit form 2B.
- (6) A NPDES permit shall be valid for a period not to exceed five years.
- (7) A NPDES permit may be renewed. An application for renewal of a NPDES permit shall be submitted to the director at least one hundred eighty days prior to the expiration date of the NPDES permit and shall comply with the requirements governing applications for permit to operate and NPDES permit applications that are established in Chapters 901:10-2 and 901:10-3 of the Administrative Code.

(E) A permit to operate application that is not connected with an application for a NPDES permit or a permit to install shall be acted upon not later than ninety days after receipt of a complete application as provided by paragraph (A)(9) of this rule. The director or the director's authorized representative may provide guidance and technical assistance to the applicant, provided that the owner or operator is responsible for compliance with the permit and the director shall not be estopped from enforcement.

901:10-1-03 Criteria for decision-making.

(A) Criteria for decision making by the director. The director shall deny, modify, suspend or revoke a permit to install or permit to operate if:

- (1) The permit application contains misleading or false information; or
- (2) The designs and plans fail to conform to best management practices and to the rules in this chapter or if the owner or operator fails to build the facility in accordance with design plans as approved in the permit to install or in accordance with amended and approved design plans; or
- (3) The plans for the manure management plan, the insect and rodent control plan and any other plans

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governing the operation fail to conform to best management practices and to rules of this chapter; or

- (4) The director determines that the designs and plans describe a proposed discharge or source for which a NPDES permit is required under this chapter and that will conflict with an areawide waste treatment plan adopted in accordance with section 208 of the act; or
- (5) The facility is not designed or constructed as a non-discharge system or operated to prevent the discharge of pollutants to waters of the state or to otherwise protect water quality; or
- (6) The director determines that the applicant or owner or operator has not complied with rule 901:10-1-10 of the Administrative Code.

- (B) The director may deny, modify, suspend or revoke a permit to install or permit to operate if the applicant, owner, operator or persons associated in the operation of concentrated animal feeding facilities, have a history of substantial noncompliance with the Federal Water Pollution Control Act, the Safe Drinking Water Act, as defined in section 6109.01 of the Revised Code, any other applicable state laws pertaining to environmental protection or environmental laws of another country that indicates that the applicant or owner or operator lacks sufficient reliability, expertise and competence to operate the facility in substantial compliance with Chapter 903. of the Revised Code and this chapter.

In evaluating a history of substantial noncompliance as required, the director may consider all of the following for a period of five years preceding the date of the application:

~~(1) (1) The applicant or owner or operator and persons associated with the applicant or owner or operator, in the operation of concentrated animal feeding facilities, have a history of substantial noncompliance with the Federal Water Pollution Control Act, the Safe Drinking Water Act, as defined in section 6109.01 of the Revised Code, any other applicable state laws pertaining to environmental protection or environmental laws of another country that indicates that the applicant or owner or operator lacks sufficient reliability, expertise and competence to operate the facility in substantial compliance with Chapter 903. of the Revised Code and this chapter.~~

~~(a) (a) In evaluating a history of substantial noncompliance as required, the director may consider all of the following for a period of five years preceding the date of the application:~~

~~(i) (1) Any information submitted on ownership and background pursuant to rule 901:10-1-02 of the Administrative Code, including the following:~~

- (a) If the applicant or permittee is a publicly traded corporation, provide the full name, date of birth, and business address of each individual or business concern holding more than twenty-five per cent of the equity in the applicant or permittee; or
- (b) If the applicant or permittee is a sole proprietor or any other business concern, provide the full name, date of birth, and business address of each individual or business concern holding more than fifty per cent of the equity in the applicant or permittee;
- (c) If the applicant or permittee is a partnership, as partnership is defined in section 1775.05 of the Revised Code, provide the full name, date of birth, and business address of each individual or business concern holding more than fifty per cent of the equity in the applicant or permittee; and
- (d) If the applicant or permittee is the recipient of a financial loan to the facility with provisions for the

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right to control management of the facility or actual control of the facility or the selection of officers, directors, or managers of the facility, identify the full name, date of birth, and business address of each individual or business concern providing the loan.

~~(ii)~~ (2) Any administrative enforcement action (including an administrative order or notice of violation), civil suit, or criminal proceeding that is:

- (a) Pending against the applicant or a business concern owned or controlled by the applicant;
- (b) Resolved or dismissed in a settlement agreement, in a consent order or decrees, is adjudicated or otherwise dismissed and that may or may not have resulted in the imposition of:
 - (i) A sanction such as a fine, penalty, payment or work or service performed in lieu of a fine or penalty; or
 - (ii) Cessation or suspension of operations.
- (c) Any revocation, suspension, or denial of a license or permit or equivalent authorization; or
- (d) With respect to paragraph (B)(1)(a) of this rule, any explanation that the applicant or owner or operator may choose to submit.

(C) In addition to the criteria set forth in paragraphs (A) and (B) of this rule, the director shall deny, modify, suspend, or revoke an NPDES permit if the director determines::

- (1) Discharge from the facility will prevent or interfere with attainment or maintenance of applicable water quality standards adopted under section 6111.041 of the Revised Code and the most current antidegradation policy adopted under section 6111.12 of the Revised Code; or
- (2) Discharge from the facility will not achieve compliance with national effluent standards; or
- (3) The administrator of the United States environmental protection agency objects in writing to the issuance of the NPDES permit in accordance with section 402(d) of the Act; or
- (4) The proposed discharge or source will conflict with an areawide waste treatment management plan adopted in accordance with section 208 of the Act; or
- (5) Forms, notices, or reports required pursuant to the terms and conditions of the NPDES permit are false or inaccurate;
- (6) The discharge is of any radiological, chemical, or biological warfare agent or high-level radioactive waste or medical waste; or
- (7) The United States army corps of engineers for the district in which the discharge is located objects in writing to the issuance of the NPDES permit as substantially impairing navigation or anchorage; or
- (8) Discharge from the facility will not achieve national standards of performance for new sources; or
- (9) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
- (10) The permitted activity endangers human health or the environment and can only be regulated to

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acceptable levels by permit modification or termination; or

- (11) The applicant or owner or operator is required to obtain a state or other appropriate certification under section 401 of the act and 40 CFR section 124.53 and that certification has not been obtained or waived;
- (12) When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states; or
- (13) Discharge from the facility will not achieve and maintain compliance with other requirements of the act and the regulations promulgated thereunder.

901:10-1-06 Certified livestock manager.

(A) Purpose and applicability.

- (1) The management and handling of manure at a major concentrated animal feeding facility, shall be conducted by or under the supervision of a person that has a current livestock manager certification and that is reasonably available to the facility.
- (2) No person who is a livestock manure broker shall buy, sell, or land apply annually more than four thousand five hundred dry tons of manure or more than twenty-five million gallons of liquid manure unless the person is a certified livestock manager.
- (3) No person who is a livestock manure applicator shall land apply and transport annually more than four thousand five hundred dry tons of manure or more than twenty-five million gallons of liquid manure unless the person is a certified livestock manager.
- (4) Any person subject to this rule who is either a livestock manure broker or a livestock manure applicator shall maintain an operating record on forms provided by the department and other forms selected by the livestock manure broker or livestock manure applicator and approved by the director. The operating record shall be retained for a minimum period of five years, shall be made available to the director upon request, and shall record and document ~~the following information for land application:~~[in accordance with paragraph \(B\) of rule 901:10-2-16 of the Administrative Code.](#)

~~Paragraph (B) of rule 901:10-2-16 of the Administrative Code;~~

- (5) In order for a person to manage or handle manure at a major concentrated animal feeding facility or for a person to either transport and land apply manure or to, buy, sell or land apply annually more than four thousand five hundred dry tons of solid manure or more than twenty-five million gallons of liquid manure in this state, they shall obtain a livestock manager certification from the department. In the alternative, the person may present a certified copy of an equivalent and valid manure manager certification from another state, which has been verified by the director or his designated representative, together with the appropriate fee as listed in the fee rule.
- (6) This rule does not apply to a person who is an owner or operator of a concentrated animal feeding facility permitted by the director in accordance with section 903.02 of the Revised Code or section 903.03 of the Revised Code, unless that person applies other manure from another animal feeding facility, concentrated animal feeding facility, or major concentrated animal feeding facility in excess of four

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thousand five hundred tons per year of solid manure or more than twenty-five million gallons of liquid manure per year.

- (7) A person is considered to be under supervision of a certified livestock manager if the holder of the certification is reasonably available, but not necessarily physically present, during the management and handling of manure. The certified livestock manager cannot claim the lack of presence as a defense under Chapter 903. of the Revised Code.

(B) Application and certification procedures.

- (1) In order to be a certified livestock manager, the applicant must meet the requirements in paragraphs (D)(1) to (D)(5) of this rule.
- (2) The applicant for a livestock manager certification shall file an application on a form provided by the director. The application shall include but not be limited to: address and telephone number of the applicant; the results of the applicant's test results for any examination completed by the applicant as described in paragraphs (D)(1) to (D)(5) of this rule; and if applicable, the quantity of manure managed or handled by the applicant.
- (3) All certifications issued shall expire on December thirty-first of the third year after the year in which the certificate was issued and each December thirty-first triennially thereafter, unless renewed in accordance with this rule. Any certification issued shall be valid for three years and thereafter be subject to renewal. A renewal shall be valid for three years.
- (4) The department shall charge an appropriate fee as listed in the fee rule 901:10-1-04 of the Administrative Code for the issuance and renewal of a livestock manager certification.
- (5) In order for a certification to be renewed, the holder must accumulate ten hours of continuing education credit over a three year period immediately preceding the date of application.

(C) Enforcement.

- (1) The director may suspend, revoke or deny a livestock manager certification if the certified livestock manager:
 - (a) Engages in fraud or deceit in obtaining a certification; or
 - (b) Fails to exercise reasonable care, judgment or use of the manager's knowledge and ability in the performance of the duties of a certified livestock manager; or
 - (c) Is incompetent or otherwise unable to properly perform the duties of a certified livestock manager; or
 - (d) Has violated or caused to be violated any provision of rules of Chapter 903. of the Revised Code.
- (2) If a livestock manager certification is suspended, the suspension shall be in effect for a period of not less than two hundred seventy days. After the required two hundred seventy days has passed and if there is substantial evidence that the conditions leading to the suspension have been corrected, the director may issue a certificate to reinstate the suspended livestock manager certification. A person may apply in writing for reinstatement. The petition must include any relevant facts concerning changes to conditions under which suspension or revocation occurred.
- (3) If a livestock manager certification is revoked, the livestock manager has a right to a hearing in

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accordance with Chapter 119. of the Revised Code.

- (4) If a livestock manager certificate is denied, the livestock manager is entitled to a hearing in accordance with Chapter 119. of the Revised Code.
- (5) If a certified livestock manager fails to renew his certification within thirty days of its expiration, he or she must make application for certification and meet the requirements of paragraph (B) of this rule.
- (6) Violations of section 903.07 of the Revised Code and division (E) of section 903.10 of the Revised Code and this rule will be considered to be category II and low gravity as set forth in rule 901:10-5-04 of the Administrative Code.

(D) Training and examination procedures.

- (1) The department may offer a training program and an examination for a livestock manager certification. The applicant shall have knowledge of information on topics that include calculating nutrient values in manure, devising and implementing a plan for the land application of manure, removing manure held in a manure storage or treatment facility and following best management practices for disposal of dead animals and manure management, including practices that control odor and protect the environment. The applicant shall be expected to have knowledge of how to devise and implement a manure management plan and an insect and rodent control plan. In addition, the applicant shall understand the laws and rules related to animal feeding facilities.
- (2) An applicant for a livestock manager certification shall pay a fee as required by rule 901:10-1-04 of the Administrative Code.
- (3) The director may specify other types of recognized training programs that, if completed, are considered to satisfy the training and examination requirement.
- (4) The director has determined that the following training and certification programs satisfy this rule:
 - (a) If an applicant for a livestock manager certification demonstrates that he or she has the knowledge of information of the topics set forth in paragraph (D)(1) of this rule and that he or she has completed the training provided in accordance with the "certified crop advisor" program conducted by the "American Society of Agronomy" and demonstrates that he or she has successfully passed the examination, then the applicant will be eligible for a certificate issued in accordance with this rule; or
 - (b) If the applicant for a livestock manager certificate demonstrates that he or she has the knowledge of the information of the topics set forth in paragraph (D)(1) of this rule and that he or she has completed the training and certification of the United States department of agriculture natural resource conservation service relating to being a certified planner to prepare comprehensive nutrient management plans, then the applicant will be eligible for a certificate issued in accordance with this rule.
- (5) The department may cooperate with or enter into cooperative agreements with any official agency of the federal government, of this state or its subdivisions, or other academic or private institutions for the purpose of administration of the training and examination portions of Chapter 903. of the Revised Code.
- (6) In accordance with section 903.20 of the Revised Code, the director may call upon the concentrated animal feeding facility advisory committee to assist in establishing the standards of training and

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examination.

(7) Training and examination opportunities will be provided at such times and places as determined by the department in consideration of the number and location of requests.

901:10-1-09 Permit modifications.

- (A) No permit to install, permit to operate or NPDES permit shall be modified unless the modification is in compliance with this rule. When a permit is modified, only the conditions subject to modification are reopened. A draft permit incorporating the proposed changes must be prepared and is subject to public notice and public participation procedures as set forth in rules 901:10-6-01 to 901:10-6-06 of the Administrative Code.
- (B) The director may propose to modify a permit and may seek the consent of the owner or operator modifying the permit. The director may modify a permit for the following reasons which include, but are not limited to:
 - (1) Information submitted by the owner or operator requesting to modify the permit;
 - (2) Information obtained through inspections;
 - (3) A permit is reviewed by the director, or
 - (4) Other causes as provided in 40 CFR section 122.62(a).
- (C) If the director seeks to modify the permit with the consent of the owner or operator and the owner or operator does not consent to the director's modification, the director shall issue a notice of the proposed modified permit with the opportunity for an adjudication hearing in accordance with Chapter 119. of the Revised Code.
- (D) If the director seeks to modify the permit without seeking the consent of the owner or operator, the director shall issue a notice of the proposed modified permit with the opportunity for an adjudication hearing in accordance with Chapter 119. of the Revised Code.
- (E) Either the director or any interested person including the permittee may request to modify a NPDES permit or revoke and reissue a NPDES permit or both for the following reasons:
 - (1) Alterations. There are material and substantial alterations, additions or expansions to the operation which occurred after a permit was issued which justify the application of permit conditions that are different or absent in the existing permit.
 - (2) Information. The director has received new information. NPDES permits may be modified during their term for this cause only if the information was not available at the time of permit issuance (other than revised rules or test methods) and would have justified the application of different permit conditions at the time of issuance. For NPDES general permits this cause includes any information indicating that cumulative effects on the environment are unacceptable. For a new source of an NPDES discharge this cause shall include any significant information derived from effluent testing required after issuance of the permit.
 - (3) New regulations. The standards or rules on which the NPDES permit was based have been changed by promulgation of amended standards or rules or by judicial decision after the permit was issued. NPDES permits may be modified during their terms for this cause only as follows:

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- (a) For promulgation of amended standards or rules, when:
 - (i) The permit condition requested to be modified was based on a promulgated effluent limitation guideline or on promulgated water quality standards or water quality standards approved by the United States environmental protection agency; and
 - (ii) The United States environmental protection agency has revised, withdrawn or modified that portion of the rule or effluent limitation guideline on which the permit condition was based, or has approved a state action with regard to a water quality standard on which the permit condition was based; and
 - (iii) An owner or operator requests modification within ninety days after Federal Register notice of the action on which the request is based.
- (b) For judicial decisions, when: a court of competent jurisdiction has remanded and stayed rules; if the remand and stay concern that portion of the rules or guidelines on which the permit condition was based; and a request for a permit modification is filed by the owner or operator within ninety days of judicial remand.
- (4) Compliance schedules. The director determines good cause exists for modification of a compliance schedule of a NPDES permit, such as acts of nature or acts of third parties, strike, flood, materials shortage or other events over which the owner or operator has little or no control and for which there is no reasonably available remedy. However, in no case may a NPDES permit compliance schedule be modified to extend beyond any applicable statutory deadline in the act.
- (5) When the owner or operator has filed a request for a variance under rule 901:10-3-08 of the Administrative Code or for a "fundamentally different factors" variance within the time specified in 40 CFR section 122.21 or 40 CFR section 125 for an NPDES permit.
- (6) To correct technical mistakes (other than the operational changes listed in the appendix to this rule), such as errors in calculation or mistaken interpretations of law made in determining permit conditions.
- (7) When the owner or operator is required by the director to incorporate an applicable toxic effluent standard or prohibition pursuant to section 307(a) of the act.
- (8) When the owner or operator is required by the director to reopen conditions in a permit which are established in the permits for toxic effluent limitations and standards.
- (9) Upon request of the owner or operator who qualifies for effluent limitations on a net basis under 40 C.F.R. section 122.45(g), or when a discharger is no longer eligible for net limitations, as provided in 40 C.F.R. 122.45(g)(1)(ii).
- (10) Upon failure of the director to notify as required by paragraph (C) of rule 901:10-6-03 of the Administrative Code, another state whose waters may be affected by a discharge from the facility.
- (11) When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology based treatment requirements appropriate to the facility under 40 C.F.R. section 125.3(c).
- (12) To establish a notification level for toxic pollutants as provided in 40 C.F.R. section 122.44(f).

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- (F) The owner or operator may submit a written application for modification to the director for approval by the director if the following apply:
- (1) The owner or operator is requesting material or substantial alterations or expansions or additions to the facility or other changes defined as a modification; or
 - (2) New information or data obtained by the owner or operator justify permit conditions in addition to or different from those in the existing permit.
- (G) An application for permit modification shall contain the following information:
- (1) The name of the owner or operator and the name and address and telephone number of the facility or operation;
 - (2) A description of the exact nature of the changes to be made;
 - (3) An explanation of why the modification is needed or requested; and
 - (4) Applicable technical information in support of the request for modification including but not limited to, data, records, reports, trend analysis, site plans and engineering plans that show the location and extent of work to be performed or the plan to be modified.
 - (5) If the director decides that the request for modification is not justified, the requestor and the owner or operator shall be notified in writing and provided the reasons for the director's determination.
- (H) If the owner or operator plans a type of change that is not listed in the appendix to this rule, the owner or operator shall submit the information listed in paragraph (J) of this rule to the director. The director shall:
- (1) Exercise discretion to determine if the type of change proposed by the owner or operator is a modification, an operational change, a major operational change, or, for NPDES permit holders, a change to the NPDES permit manure management plan;
 - (2) Notify the owner or operator in writing of the director's determination that the submitted change is a modification, an operational change, a major operational change, or a change to the NPDES permit manure management plan; the approval or denial of the submitted change and the reasons for such determination to approve or deny.
 - (3) The owner or operator shall not commence any change until the director has acted in accordance with the requirements in paragraph (H)(2) of this rule.
- (I) Major operational changes. The owner or operator shall submit to the director's authorized representative any planned major operational change listed in the appendix to this rule in accordance with paragraph (J) of this rule.

The owner or operator shall not commence with any changes proposed in the planned major operational change submitted to the department until:

~~(1)-(1) The owner or operator shall not commence with any changes proposed in the planned major operational change submitted to the department until:~~

~~(a)-(1)~~ (1) The department has approved the planned major operational change and has notified the owner or operator in writing of such approval.

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~~(b)~~ (2) If the department determines the planned major operational change submitted by the owner or operator is not approved, the owner or operator shall be notified in writing and provided the reasons for the department's determination.

(J) An owner or operator's application for a major operational change shall contain the following information:

- (1) The name of the owner or operator and the name, address and telephone number of the facility or operation;
- (2) A description of the exact nature of the changes requested;
- (3) An explanation of why the major operational change is requested; and
- (4) Applicable technical information in support of the request for the change, including but not limited to: date, records, reports, trend analysis, site plans and engineering plans that show the location and extent of work to be performed or the plan to be modified.

(K) Operational changes. The owner or operator shall record operational changes in the operating record to be maintained at the facility.

- (1) The director's authorized representative may review any operational change and any applicable information with the operational change; and
- (2) The director's authorized representative may approve the operational change in writing. The director's authorized representative may signify approval of an operational change by the representative's signature and date in the operating record.

(L) Operational changes and/or major operational changes made by the owner or operator and approved by the director in accordance with the requirements of this rule shall be recorded in the operating record as required in rule 901:10-2-16 of the Administrative Code and in the permit to install or permit to operate as applicable.

(M) Changes to NPDES permit manure management plans. For NPDES permits, where a permittee makes changes to the concentrated animal feeding operation's manure management plan previously approved by the director, other than as a result of calculations made in accordance with the requirements of paragraph (D)(1)(g)(ix) of rule 901:10-3-01 of the Administrative Code, the permittee must provide the director with the most current version of the manure management plan and identify changes from the previous version. The director must review the revised manure management plan to ensure it meets the requirements of rules 901:10-2-08 to 901:10-2-11, 901:10-2-13 to 901:10-2-16 and rule 901:10-2-18, and any applicable provisions in rules 901:10-3-02 to 901:10-3-11 of the Administrative Code, and must determine whether the changes to the manure management plan necessitate revision to the terms of the manure management plan incorporated into the permit issued to the concentrated animal feeding operation pursuant to paragraph (D)(1)(g) of rule 901:10-3-01 of the Administrative Code. If revision to the terms of the manure management plan is not necessary, the director shall notify the permittee and upon notification the permittee may implement the revised manure management plan. If revision to the terms of the manure management plan is necessary the director shall determine whether the changes are substantial changes under this provision.

(1) Substantial changes to the terms of a manure management plan incorporated as terms and conditions of an NPDES permit include, but are not limited to:

- (a) Addition of new land application areas not previously included in the permittee's manure

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management plan, unless the land application area is covered by the terms of a manure management plan incorporated into an existing NPDES permit and the permittee complies with the terms applicable to the land application area under the existing NPDES permit.

(b) Any changes to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop established pursuant to paragraph (D)(1)(g)(ix) of rule 901:10-3-01 of the Administrative Code.

(c) Addition of any crop or other uses not included in the terms of the permittee's manure management plan and corresponding field-specific rates of application expressed in accordance with paragraph (D)(1)(g)(ix) of rule 901:10-3-01 of the Administrative Code.

(d) Changes to site-specific components of the nutrient management plan, where such changes are likely to increase the risk of nitrogen and phosphorus transport to surface waters of the state.

(2) If the director determines that the changes to the terms of the manure management plan are not substantial, the director must make the revised manure management plan publicly available, revise the terms of the manure management plan incorporated into the permit, and notify the owner or operator and inform the public through the Ohio department of agriculture livestock environmental permitting program web site of any changes to the terms of the manure management plan that are incorporated into the permit.

(3) If the director determines that the changes to the terms of the manure management plan are substantial, the director shall notify the public and make the proposed changes and the information submitted by the permittee available for public review and comment. A comment period of thirty days shall be provided for public review and comment, with notice of the comment period being provided to the permittee and published on the Ohio department of agriculture livestock environmental permitting program web site. During the comment period any interested person may submit written comments on the notice and may request a public meeting. The grounds for a public meeting shall be the same as those provided in paragraph (D) of rules 901:10-6-01 and 901:10-6-04 of the Administrative Code. Any public meeting shall be conducted as described in rule 901:10-6-04 of the Administrative Code, except that notice regarding the scheduling of the public meeting shall be provided on the Ohio department of agriculture livestock environmental permitting program web site, rather than through publication in the legal notice section of a newspaper. The provisions of paragraph (J) of rule 901:10-6-04 of the Administrative Code shall also apply to the public comment period. The director shall, if necessary, require the applicant to further revise the manure management plan in order to approve the revision to the terms of the manure management plan incorporated into the concentrated animal feeding operation's permit. Once the director incorporates the revised terms of the manure management plan into the permit, the director must notify the permittee and inform the public of the final decision concerning revisions to the terms and conditions of the permit.

(N) The incorporation of the terms of a concentrated animal feeding operation's manure management plan into the terms and conditions of a general NPDES permit issued under Chapter 901:10-4 of the Administrative Code is not a cause for modification pursuant to this rule.

901:10-2-01 Permit to install: purpose and applicability.

(A) Purpose and applicability of a permit to install.

(1) No person shall construct a new concentrated animal feeding facility without first obtaining a permit to

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install issued by the director.

- (2) Any person who plans to construct a large concentrated animal feeding operation or a concentrated animal feeding facility or major concentrated animal feeding facility shall comply with applicable rules 901:10-2-01 to 901:10-2-06 of the Administrative Code.
 - (3) Any animal feeding facility that is a small or medium concentrated animal feeding operation may be required by the director to comply with applicable rules 901:10-2-01 and 901:10-2-03 to 901:10-2-06 of the Administrative Code.
 - (a) If the director has made a determination that the medium or small animal feeding facility shall be required to be permitted as a medium or small concentrated animal feeding operation; and
 - (b) If the director determines that the existing animal feeding facility requires modifications in order to comply with best management practices.
 - (4) A person that is required to obtain both a permit to install pursuant to section 903.02 of the Revised Code and a permit to operate pursuant to section 903.03 of the Revised Code shall submit both applications for those permits simultaneously.
- (B) Administrative procedures for a permit to install.
- (1) In order to obtain a permit to install, the owner or operator shall submit:
 - (a) A properly completed application in accordance with paragraph (C) of this rule; and
 - (b) An appropriate fee as stated in rule 901:10-1-04 of the Administrative Code.
 - (2) The owner or operator may amend the application for a permit to install prior to the conduct of any public meeting that may be held for the draft permit to install and/or while the permit to install application is pending before the director.
 - (3) The owner or operator shall notify the department prior to beginning actual construction of the manure storage or treatment facility.
 - (4) Upon completion of construction of the manure storage or treatment facility, the owner or operator shall submit a notarized statement certifying that the facility was constructed in accordance with the ~~as-built design~~ plans to the department. As-built plans shall be provided and signed by a professional engineer if the design plans require a professional engineer as described in paragraph (A)(1) of rule 901:10-2-05 or paragraph (A) of rule 901:10-2-06 of the Administrative Code.
 - (a) A copy of the completed and approved as-built plans shall be submitted to demonstrate compliance with paragraph (A) of rule 901:10-2-05 or paragraph (A) of rule 901:10-2-06 of the Administrative Code and shall be submitted for the permanent record.
 - (b) In addition to as-built plans, the following shall be submitted where applicable as part of the construction or permit to install:
 - (i) Any soils investigations, compaction testing, soil bearing confirmation or lab analyses as required by plans.

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(ii) Pictures demonstrating construction specifications were followed.

(iii) Daily log of construction activity including dates, weather conditions, and work completed.

(iv) Documentation demonstrating concrete mix and concrete construction was in accordance to approved plans

(v) Any other construction documentation that is required by the approved set of engineering plans or in the permit to install.

~~(b)~~(c) After submitting a copy of the completed as-built plans and after the facilities are inspected by the director or an authorized representative as required by this rule, an authorized representative of the director will issue authorization to stock animals or use a new manure storage or treatment facility and to thereby commence operations in accordance with any permit to operate issued for the facility. Facilities are required to be inspected by the director or an authorized representative in a timely manner prior to stocking with animals or using any new manure storage or treatment facility.

(5) The owner or operator shall maintain a copy of the current permit to install issued by the department at the concentrated animal feeding facility's site office. A copy of the ~~completed and approved~~ as-built plans will be kept at the office of the facility.

(6) A permit to install may be modified in accordance with rule 901:10-1-09 of the Administrative Code. The owner or operator shall not modify the concentrated animal feeding facility without obtaining a permit modification.

(C) Contents of an application for a permit to install.

Unless otherwise indicated, an application for a permit to install shall contain the information and criteria as required in rules 901:10-1-02 and 901:10-1-03 of the Administrative Code and shall attach and/or include all of the following information:

(1) The name and address of the applicant, of all partners if the applicant is a partnership or of all officers and directors if the applicant is a corporation and of any other person who has a right to control or in fact controls management of the applicant or the selection of officers, directors or managers of the applicant.

~~(2)~~ (2) ~~The type of livestock and the number of animals that the concentrated animal feeding facility would have the design capacity to raise or maintain and the anticipated beginning and ending dates for work performed.~~

~~(3)~~ (2) A statement of the quantity of water that the concentrated animal feeding facility will utilize on an average daily and annual basis, a detailed description of the basis for the calculation utilized in determining the quantity of the water utilized and a statement identifying the source of the water.

~~(4)~~ (3) Copies of recorded water well logs on file with the Ohio department of natural resources division of water and their locations within a one thousand foot radius of the manure storage or treatment facility, as located on a map that includes the well locations.

~~(5)~~ (4) A scaled map adequate to show detail that includes, but is not limited to:

(a) Approximate overall dimensions of the manure storage or treatment facility;

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- (b) Boundaries of the concentrated animal feeding facility;
- (c) Location and siting distances from the manure storage or treatment facility. For purposes of identifying and illustrating the siting criteria, the owner or operator of a large concentrated animal feeding operation or a concentrated animal feeding facility or a major concentrated animal feeding facility is to submit a document that demonstrates compliance with the siting criteria in rule 901:10-2-02 of the Administrative Code; and
- (d) Identify the approximate location of all known subsurface drains within one hundred feet of the proposed manure storage or treatment facility.

~~(6)~~ (5) The report required by paragraph (C) of rule 901:10-2-03 of the Administrative Code, including the information on the soils, ground water sampling and analysis, hydrology, subsurface geology and topography of the land area used for the manure storage or treatment facility based on the subsurface geological exploration conducted in accordance with rule 901:10-2-03 of the Administrative Code. The report may also include site-specific information and conclusions derived from the site's subsurface geological exploration. If required as a result of the subsurface geological exploration conducted pursuant to rule 901:10-2-03 of the Administrative Code, additional groundwater monitoring shall be included.

~~(7)~~ (6) Designs, plans and detailed engineering drawings for the proposed construction of the concentrated animal feeding facility that comply with rules 901:10-2-04, 901:10-2-05 and/or 901:10-2-06 of the Administrative Code and include the proposed location of the construction site, and design and construction plans and specifications, ~~including anticipated beginning and ending dates for the work performed.~~

[Comment: Include detailed engineering drawings, for example; cross sections, pipe requirements, concrete or earthwork specifications, illustrations and profiles for construction of the manure storage or treatment facility.]

~~(8)~~ (7) The precipitation runoff and stormwater grading plans required by rule 901:10-2-04 of the Administrative Code.

~~(9)~~ (8) Manure characterized in accordance with rules 901:10-2-04 and 901:10-2-10 of the Administrative Code.

901:10-2-02 Permit to install: siting criteria.

Manure storage or treatment facilities shall be designed and constructed in accordance with the criteria in paragraphs of (A) to (N) of this rule. In this rule siting means a measure of horizontal or vertical distance for purposes of installing the manure storage or treatment facility.

(A) Water wells, ~~and/or~~ class five agricultural drainage wells together ~~referred to~~ hereinafter are referred to as "well".

(1) A fabricated structures shall be at least fifty horizontal feet from a well.

(2) A manure storage pond or manure treatment lagoon shall be at least three hundred horizontal feet from a well.

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(B) Source water protection for public water systems.

(1) Public water wells.

- (a) A fabricated structure, manure storage pond, and manure treatment lagoon shall not be located within three hundred feet of a well serving a public water system that is owned or operated by the owner or operator of the facility and is a public water system located on the property of the owner or operator of the facility.
- (b) A fabricated structure, manure storage pond, and manure treatment lagoon shall not be located within the one-year time-of-travel contour from a well for which the Ohio environmental protection agency has delineated or endorsed a ground water source protection area and that serves a non-community water system not listed in paragraph (B)(1)(a) of this rule. If no ground water source protection area has been delineated or endorsed, then the fabricated structure, manure storage pond, or manure treatment lagoon shall not be located closer than three hundred feet from the well.
- (c) A fabricated structure, manure storage pond, and manure treatment lagoon shall not be located within the one-year time-of-travel contour from a well for which the Ohio environmental protection agency has delineated or endorsed a ground water source protection area and that serves a community water system not listed in paragraph (B)(1)(a) of this rule or one thousand feet from a public water well whichever is greater.
- (d) A fabricated structure, manure storage pond, and manure treatment lagoon shall not be located between the one-year and five-year time-of-travel contours from a well identified as highly susceptible unless additional ground water monitoring, or additional engineered controls or both are added, installed, and implemented as approved by the director.

(2) Surface water intake.

- (a) A fabricated structure shall be located no closer than one thousand five hundred feet from a surface water intake.
- (b) A manure storage pond or manure treatment lagoon shall be installed no closer than one thousand five hundred feet from a surface water intake.

(C) Streams.

- (1) Fabricated structures. ~~A fabricated structure on a concentrated animal feeding facility shall be located a minimum of one hundred twenty horizontal feet from a stream or three hundred horizontal feet from a stream if the fabricated structure is on a major concentrated animal feeding facility, unless additional design criteria are added, installed, and implemented as approved by the director.~~
 - (a) A fabricated structure on a concentrated animal feeding facility shall be located a minimum of one hundred twenty horizontal feet from a stream, unless additional design criteria are added, installed, and implemented as approved by the director.
 - (b) A fabricated structure on a major concentrated animal feeding facility shall be located a minimum of three hundred horizontal feet from a stream, unless additional design criteria are added, installed, and implemented as approved by the director.

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- (2) A manure storage pond or manure treatment lagoon ~~on a concentrated animal feeding facility shall be located a minimum of three hundred horizontal feet from a stream or six hundred horizontal feet if the manure storage pond or manure treatment lagoon is located on a major concentrated animal feeding facility, unless additional design criteria are added, installed, and implemented as approved by the director.~~

(a) A manure storage pond or manure treatment lagoon on a concentrated animal feeding facility shall be located a minimum of three hundred horizontal feet from a stream, unless additional design criteria are added, installed, and implemented as approved by the director.

(b) A manure storage pond or manure treatment lagoon on a major concentrated animal feeding facility shall be located a minimum of six hundred horizontal feet from a stream, unless additional design criteria are added, installed, and implemented as approved by the director.

(D) Cold water habitat and seasonal salmonid streams.

- (1) A fabricated structure shall be located a minimum of three hundred horizontal feet from a cold water habitat or seasonal salmonid stream, unless additional design criteria are added, installed, and implemented as approved by the director.
- (2) A manure storage pond or manure treatment lagoon shall be located a minimum of six hundred horizontal feet from a cold water habitat and seasonal salmonid stream, unless additional design criteria are added, installed, and implemented as approved by the director.

(E) Aquifer.

A fabricated structure, manure storage pond or manure treatment lagoon shall have fifteen vertical feet of low permeability material, between the waste placement location and the uppermost aquifer, unless additional design criteria or groundwater monitoring, or both, are added, installed, and implemented as approved by the director.

- (1) If additional design criteria or groundwater monitoring are added, installed or implemented, the manure storage pond or manure treatment lagoon shall have a minimum of five vertical feet of low permeability material, between the waste placement surface and the uppermost aquifer.
- (2) As used in this rule and in Chapter 901:10-2 of the Administrative Code, low permeability material means low permeability among the soil types of geologic material presented in figure 7-11, Chapter 7, "Geologic and Ground Water Considerations," part 651, "Agricultural Waste Management Field Handbook," ~~June 1999~~ August 2010.

(F) Sole source aquifer.

A manure storage pond or manure treatment lagoon shall not be located above a sole source aquifer without design of ground water monitoring or engineered controls or both that are installed and implemented as approved by the director.

(G) Floodplains and floodways.

- (1) The production area of a facility shall not be located in a one hundred year floodplain, as those boundaries

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are shown on the applicable maps prepared under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, without design of additional monitoring or engineered controls or both that are installed and implemented as approved by the director and in accordance with the following.

- (a) The manure storage pond or manure treatment lagoon embankments and any wall of a fabricated structure shall be designed and constructed to withstand the hydrostatic pressures from a one hundred year flood that may be exerted on the embankments or walls during a flood event;
- (b) The elevation of the top of the manure storage or treatment facility shall be at the summation of the elevation of the one hundred year flood plus a minimum freeboard height of two feet;
- (c) Any monitoring wells installed pursuant to this rule shall be physically protected from the floodwaters.

- (2) A manure storage pond or manure treatment lagoon or fabricated structure shall not be located in established regulator floodways as designated by the federal emergency management agency.

(H) Karst areas.

A fabricated structure, manure storage pond or manure treatment lagoon shall not be located in a karst area without design of groundwater monitoring or engineered controls or both that are installed and implemented as approved by the director.

(I) Bedrock.

A fabricated structure, manure storage pond or manure treatment lagoon shall be located a minimum of three feet, between the bottom of the waste placement location and bedrock where no aquifer is present.

(J) Mines.

A manure storage or treatment facility shall not be located in an area of potential subsidence, due to an underground mine known to be in existence prior to the date the application for a permit to install is submitted, without design of groundwater monitoring or engineered controls or both that are installed and implemented as approved by the director.

- (K) Property lines, which are defined in this paragraph as property lines not under common ownership of the owner or operator of a facility covered by this rule and public roads.

A fabricated structure, manure storage pond or manure treatment lagoon shall be located no closer than one hundred horizontal feet from a property line or public road.

(L) Neighboring residences.

- (1) A manure storage or treatment facility for solid manure at a concentrated animal feeding facility shall be no closer than five hundred horizontal feet from any neighboring residence. ~~The manure storage or treatment facility for solid manure at a major concentrated animal feeding facility shall be no closer than one thousand horizontal feet from a neighboring residence.~~
- ~~(2) The manure storage or treatment facility for solid manure at a major concentrated animal feeding facility shall be no closer than one thousand horizontal feet from any neighboring residence.~~

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~~(2)-(3)~~ A manure storage or treatment facility for liquid manure at a concentrated animal feeding facility shall be no closer than one thousand horizontal feet from any neighboring residence. ~~A manure storage or treatment facility for liquid manure at a major concentrated animal feeding facility shall be no closer than two thousand horizontal feet from a neighboring residence.~~

~~(4)~~ A manure storage or treatment facility for liquid manure at a major concentrated animal feeding facility shall be no closer than two thousand horizontal feet from any neighboring residence.

~~(3)-(5)~~ When utilizing proven technology, the siting criteria may be reduced by the director by using the list of technologies appended to this rule. The technologies listed in this appendix are not inclusive of all available technologies. Selected technologies are required to be fully described in detail plans and specifications, engineering drawings, and maps that shall be reviewed and approved by the director in deciding whether or not to reduce any applicable siting criteria as a reasonable exercise of the director's discretion.

(M) The siting criteria requirements applicable to a manure storage or treatment facility shall not apply to the criteria set forth in paragraphs (K) and (L) of this rule if the applicant for a permit to install obtains a written agreement from all of the owners of neighboring residences or property owners located closer than the siting criteria. The agreement shall state such owners are aware of the proposed construction and have no objections to such construction. A copy of the written agreement shall be included with the permit to install application. The written agreement may be filed in the register of deeds office of the county in which the neighboring residence is located.

~~{Comment: The written agreement may be filed in the register of deeds office of the county in which the neighboring residence is located.}~~

(N) As used in this rule, additional design for engineered controls includes but is not limited to additional freeboard, secondary containment, additional treatment, increased liner thickness, synthetic liner materials, groundwater monitoring, or design and construction alternatives set forth in paragraph (A)(9)(c) of rule 901:10-2-06 of the Administrative Code.

901:10-2-04 Manure storage and treatment facilities.

(A) An application for a permit to install shall include analysis of manure that is sampled and analyzed in accordance with paragraphs (A) to (D) of rule 901:10-2-10 of the Administrative Code.

(B) For the purposes of a permit to install, manure shall be quantified and characterized to allow for proper sizing and design of the proposed manure storage or treatment facility. For an existing facility that submits a permit to install application for a similar type of manure storage or treatment facility with no change in treatment technology to what is currently utilized by the facility, the volume of manure and characterization of manure shall be based on manure production records and manure analysis from an actual sample from the facility. If actual manure production records or manure analysis are not available or are deemed not accurate by the department, or if the permit to install application is for a new facility or treatment technology not in use by the existing facility, then the owner or operator shall use the table appended to this rule or use manure production records and manure characterization records from a similar type facility with a similar type of manure storage or treatment facility or treatment technology. If manure data or analysis is used from a similar type facility to characterize manure, the owner or operator shall submit this alternative manure data along with the identification of the source of the data.

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(C) General design and construction criteria for a manure storage or treatment facility.

- (1) An appropriate design plan shall be required for a new or expanding manure storage or treatment facility.
- (2) A manure storage or treatment facility shall be designed and constructed to handle manure volume, precipitation and surface water runoff in a manner that prevents the discharge of manure to waters of the state, except as provided in applicable standards set forth in rules 901:10-3-02 to 901:10-3-06 of the Administrative Code.

(D) Calculating storage volume for manure storage or treatment facilities.

- (1) The total storage volume of a manure storage or treatment facility shall not be less than the volume calculated as the summation of the following, unless the owner or operator or the director determines that additional storage capacity is required to meet permit conditions.
 - (a) Manure generated during the storage period required by rule 901:10-2-05 or rule 901:10-2-06 of the Administrative Code;
 - (b) Average precipitation less evaporation on the surface area of the manure storage or treatment facility during the storage period;
 - (c) Normal runoff that drains from the concentrated animal feeding facility's drainage area into the manure storage or treatment facility during the storage period. Impermeable surfaces shall utilize a minimum factor of fifty per cent of the average precipitation;
 - (d) A precipitation event based on the surface of the manure storage or treatment facility and applicable standards in rules 901:10-3-02 to 901:10-3-06 of the Administrative Code;
 - (e) The runoff from a precipitation event that drains from the concentrated animal feeding facility's drainage area into the manure storage or treatment facility based on applicable standards in rules 901:10-3-02 to 901:10-3-06 of the Administrative Code; and
 - (f) Residual manure after liquids have been removed.
- (2) In addition to the requirements in paragraph (D)(1) of this rule, the total storage volume of a manure treatment lagoon shall not be less than the volume calculated using one of the following methods set forth in the appendix to this rule.

(E) Stormwater pollution prevention plans. Each owner or operator of a concentrated animal feeding operation shall prevent pollution of stormwater resulting from an animal feeding facility by submitting plans to satisfy this rule and rule 901:10-3-11 of the Administrative Code to do the following:

- (1) Maintain separation of uncontaminated stormwater runoff from contaminated water with designs and installations that include, but are not limited to, settling basins, runoff ponds, liquid impoundments, and areas within berms and diversions;
 - (a) Grade the area around the livestock buildings and the manure storage or treatment facility;
 - (b) Divert stormwater runoff and roof water away from the manure storage or treatment facility or other structures in the production area.
 - (c) Use spill prevention and good housekeeping techniques to ensure that stormwater discharges from the

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following areas comply with Ohio water quality standards: immediate access roads and rail lines used or traveled by carriers; or raw materials, products, waste materials, or by-products used or created; refuse sites; sites used for storage and maintenance of material handling equipment; sites used for handling material other than manure and shipping and receiving areas.

(d) Install systems that are designed to capture and treat contaminated runoff and prohibit discharge of contaminated discharge. The owner or operator may use the following criteria, provided that in no case shall grassed filter strips satisfy effluent limitations for large facilities in rules 901:10-3-02 to 901:10-3-06 of the Administrative Code.

(i) The "Ohio Natural Resource Conservation Service, Conservation Practice Standards Section IV, Field Office Technical Guide" which includes the following:

(a) "Pond, No 378," January 2003;

(b) "Constructed Wetland Conservation Practice Standard, No. 656," January 2010, but provided there shall be no discharge;

(c) "Heavy Use Area Protection Practice, No. 561," ~~August 2006~~[December 2012](#);

(d) "Composting Operation, No. 317," March 2010;

(e) "Critical Area Planting, No. 342," ~~July 1999~~[March 2012](#);

(f) "Dike, No. 356," June 2002;

(g) "Diversion, No. 362," June 2002;

(h) "Grade Stabilization Structure, No. 410," May 1, 1988;

(i) "Pipeline, No. 516," June 2002;

(j) "Roof Runoff Structure, No. 558," June 2002;

(k) "Sediment Basin, No. 350," June 2002;

(ii) The "Ohio Livestock Manure And Wastewater Management Guide, Bulletin 604, The Ohio State University Extension, January 2006;" and

(iii) USDA natural resource conservation service - NHCP.

(2) Construct coverings over any structures in the production area [where manure may be exposed to direct precipitation](#); or

(3) Install vegetative cover and protect stream channels and areas adjacent to such channels from a concentrated animal feeding operation.

(4) The owner or operator may submit plans that implement alternative practices to the director for approval provided that any alternative practices must be demonstrated to be equivalent to the practices listed in paragraph (F)(1) of this rule unless the owner or operator or the director determine that additional total storage capacity is required to meet permit conditions. All of the practices listed are subject to the design standards for precipitation events in paragraphs (C) and (D) of this rule.

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901:10-2-05 Fabricated structures.

- (A) Fabricated structures shall be designed and maintained to prevent discharge to ground waters or surface waters.
- (1) Fabricated structures for liquid manure and fabricated structures that store solid manure with a wall height of 8 feet or greater (measured from the top of the footing), shall be designed by ~~or under the supervision of~~ a professional engineer, ~~or shall be an appropriate~~ which shall include a signed and sealed set of design plans.
 - (2) A fabricated structure shall be designed and constructed to meet the requirements in paragraph (A) of rule 901:10-2-03 and any applicable section of the appendix to this rule.
 - (3) Storage period. ~~The minimum storage period for a fabricated structure shall be one hundred twenty days, unless otherwise approved by the department. Additional storage may be required by the department in order to ensure protection of groundwater, surface water or the structural integrity of the fabricated structure.~~
 - (a) The minimum storage period for a fabricated structure storing liquid manure shall be one hundred and eighty days.
 - (b) The minimum storage period for a fabricated structure storing solid manure shall be one hundred and twenty days.
 - (c) Additional storage may be required by the department in order to ensure protection of groundwater, surface water, or the structural integrity of the fabricated structure.
 - (4) Freeboard. ~~A fabricated structure shall be designed and maintained to have an operating level that does not exceed the level that provides adequate storage to contain a precipitation event plus an additional six inches of freeboard, except for fabricated structures that contain solid manure and are not subject to precipitation or runoff.~~
 - (a) A fabricated structure shall be designed and maintained to have an operating level that does not exceed the level that provides adequate storage to contain a precipitation event plus an additional six inches of freeboard
 - (b) Fabricated structures that contain solid manure and are not subject to precipitation or runoff do not require an additional six inches of freeboard.
 - (5) Fabricated structures for liquid manure shall have a liquid level board, staff gauge, depth marker, or other appropriate device approved by the director, installed within the interior to monitor manure levels. The approved device shall indicate levels every one foot in vertical elevation and shall indicate levels as described in paragraph (A)(4)(b) of rule 901:10-2-08 of the Administrative Code.

901:10-2-06 Manure storage pond and manure treatment lagoon.

- (A) A manure storage pond or manure treatment lagoon subject to this rule shall be designed and the plans

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stamped by a professional engineer. The following design and construction criteria shall be followed:

- (1) ~~Subsurface~~An exploratory trench shall be excavated a minimum of four feet below natural grade to investigate for subsurface drainage lines in the immediate area of the manure storage pond or manure treatment lagoon. Any lines found shall be removed or relocated to provide for a minimum separation distance of not less than fifty feet between the top inner perimeter of the manure storage pond or manure treatment lagoon and the subsurface drainage line unless the subsurface drainage line is necessary to comply with paragraph (A)(9)(a) of this rule.
- (2) If not already installed at the facility, a liquid level board, staff gauge, depth marker, or other appropriate device, approved by the director, shall be installed within the interior of the liquid manure storage pond or manure treatment lagoon to monitor manure levels. This device shall indicate levels every one foot in vertical elevation and shall indicate levels as described in paragraph ~~(D)(1)(A)(4)(a)~~ of rule 901:10-2-08 of the Administrative Code.
- (3) Agitation and pump-out points shall be shown on plans for a manure storage pond and a manure treatment lagoon with scour protection required.
- (4) An emergency spillway may be included at the one foot freeboard level and shall be directed to a specifically designed filter strip or infiltration areas if the facility is constructed with an earthen embankment.
- (5) Embankments.
 - (a) The minimum embankment top width shall be eight feet for embankments less than fifteen feet, ten feet for embankments ranging in height from fifteen to less than twenty feet, and twelve feet for embankments ranging from twenty to twenty-five feet high, as measured from the low point on the downstream toe to the top of the dam.
 - (b) If the embankment is to be traversed by farm equipment, the minimum top width shall be twelve feet. The height of the embankment shall be no greater than twenty-five feet, as measured from the low point on the downstream toe to the top of the dam.
 - (c) Embankments shall have side slopes not steeper than two horizontal to one vertical.
 - (d) The combined side slopes of settled embankments shall not be less than five horizontal to one vertical.
 - (e) Vegetative cover shall be established on any exposed embankment and mowed or otherwise maintained to control erosion or other embankment deterioration. In the alternative, the director may approve other means or materials to control erosion.
- (6) Inlets and outlets.
 - (a) Inlets shall be designed to resist corrosion, plugging and freezing.
 - (b) The embankment may contain no outlet piping that extends through the embankment unless the piping discharges to another facility or is a component of a re-circulating flush system.
 - (c) All pipes for manure transfer or manure flush systems shall have watertight joints in accordance with

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the following ASTM standards:

- (i) ASTM D3212-standard specification for joints for drain and sewer plastic pipes using flexible elastometric seals; or
- (ii) ASTM C443-standard specification for joints for concrete pipe and manholes, using rubber gaskets; or
- (iii) Other standards recommended by the professional engineer and approved by the department.

(7) Storage period.

The minimum storage period of manure for a manure storage pond and manure treatment lagoon shall be one hundred eighty days of manure production unless alternative use and design is otherwise approved by the department. This section is not intended to address the surface water runoff where the runoff does not enter into the pond or lagoon.

(8) Freeboard.

Freeboard shall be provided for a manure storage pond and manure treatment lagoon in addition to the total storage volume such that the elevation of the emergency spillway or top of the settled embankment, if there is no designed emergency spillway, shall be less than the level that provides adequate storage to contain a precipitation event as required in rules 901:10-3-02 to 901:10-3-06 of the Administrative Code, plus an additional one foot of freeboard.

(9) Liners.

The owner or operator shall include the use of a liner as part of the manure storage pond or manure treatment lagoon that achieves a hydraulic conductivity of at least one times ten to the minus seven centimeters per second (1×10^{-7} cm/sec) to insure the integrity of the manure storage pond or manure treatment lagoon. A minimum of three feet of in situ soils with a hydraulic conductivity of one times ten to the minus seven centimeters per second will satisfy this requirement. The following design and construction criteria shall be followed:

- (a) Ground water seepage shall be prevented from entering the bottom of the manure storage pond or manure treatment lagoon after construction by installing and/or maintaining a liner with a minimum liner thickness of three feet of in situ soil between the top of the seasonal high ground water surface and the bottom of the manure storage pond or manure treatment lagoon. In order to meet this requirement the ground water surface may be lowered by use of subsurface drainage lines that are properly designed by the engineering geologist or professional engineer and approved by the director.
- (b) Soil liners shall be designed and constructed using procedures in section 651.1080 of the "United States Department of Agriculture, Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Chapter Ten, Geotechnical Design and Construction, ~~November 1997~~ August 2009," and "United States Department of Agriculture, Ohio Natural Resources Conservation Service, Section IV, Field Office Technical Guide Conservation Practice Standard 521-D, Pond Sealing and Lining, Compacted Earth Treatment. January 2010." A soil liner thickness shall be a minimum of three feet.

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(c) Design and construction alternatives for ground water protection.

- (i) As a result of the subsurface geological exploration conducted pursuant to rule 901:10-2-03 of the Administrative Code and the findings of the report submitted in accordance with that rule, an engineering geologist, professional engineer or the director may determine that installation of an additional liner is required to insure the integrity of the manure storage pond or manure treatment lagoon and to protect groundwater.
- (ii) If an additional or alternative liner protection is required as set forth in paragraph (A)(9)(c)(i) of this rule, then one or more of the following may be required by the director:
 - (a) Concrete liners that have a minimum thickness of five inches and shall include non-metallic water stops for all joints;
 - (b) Flexible plastic membranes that are installed under the supervision of the manufacturer or the manufacturer's representative and include written certification that the liner was installed in accordance with the manufacturers recommendations.
 - (c) Geosynthetic clay liners that are installed under the supervision of the manufacturer or the manufacturer's representative and include written certification that the liner was installed in accordance with the manufacturer's recommendations; or
 - (d) Other liner designs or materials will be considered at the discretion of the director if the minimum criteria of this paragraph of this rule are met.

(10) Design and construction criteria for a manure storage pond or manure treatment lagoon located in a karst area.

- (a) Manure storage ponds or manure treatment lagoons may be constructed within a karst area provided that the facility is designed to prevent seepage of manure to groundwater.
- (b) Any portion of a manure storage pond or manure treatment lagoon located below the pre-construction soil surface level and constructed in a karst area shall be designed and constructed utilizing a rigid material such as concrete or steel or a properly designed clay or synthetic liner, when appropriate, upon findings in the geologic exploration.

(11) Manure treatment lagoons shall be designed in accordance with the methods set forth in the appendix to this rule.

901:10-2-08 Contents of the manure management plan: inspections, maintenance and monitoring.

A manure management plan is a plan developed to minimize water pollution and protect waters of the state. The manure management plan shall include best management practices for reuse and recycling nutrients, prevent direct contact of confined animals with waters of the state, and ensure proper mortality management.

~~(A) (A) A manure management plan is a plan developed to minimize water pollution and protect waters of the state. The manure management plan shall include best management practices for reuse and recycling nutrients, prevent direct contact of confined animals with waters of the state, and ensure proper mortality management.~~

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- ~~(1)~~ (A) The manure management plan shall specify the frequency of inspections to be conducted by the owner or operator at the manure storage or treatment facility; and
- ~~(2)~~ (B) The owner or operator shall maintain a list of equipment used, including land application equipment and a written chronological record of the dates of inspections, maintenance, calibration monitoring and repairs that shall be maintained in the operating record required by rule 901:10-2-16 of the Administrative Code and be made readily available during an inspection of the facility. These records shall also be made available at the request of the director. All repairs shall be completed promptly. The department shall inspect any major structural repairs; and
- ~~(3)~~ (C) The owner or operator must periodically inspect equipment used for land application of manure, litter, or process wastewater for leaks.
- ~~(4)~~ (D) At a minimum, the following must be inspected, performed, monitored or maintained at the manure storage or treatment facility and documented in the operating record:
- ~~(a)~~ (1) The operating level of manure treatment lagoons and manure storage ponds. The operating level must not exceed the level that provides adequate storage to contain a precipitation event as required in rules 901:10-3-02 to 901:10-3-06 of the Administrative Code, plus an additional one foot of freeboard.
- ~~(b)~~ (2) The operating level of fabricated structures must not exceed the level that provides adequate storage to contain a precipitation event as required in rules 901:10-3-02 to 901:10-3-06 of the Administrative Code, plus an additional six inches of freeboard, unless the fabricated structure is designed and maintained for solid manure and is not subject to precipitation.
- ~~(c)~~ (3) For paragraphs (D)(1) and (D)(2) ~~(A)(4)(a) and (A)(4)(b)~~ of this rule, the maximum operating level shall not exceed that specified in the manure management plan.
- ~~(d)~~ (4) Inspect in order to confirm that domestic and industrial wastewater from showers, toilets, sinks, medical wastes, chemicals and other contaminants etc., handled on-site are not discharged into the manure storage or treatment facility unless designed and permitted to do so.
- ~~(e)~~ (5) Manure storage or treatment facilities under the control of the owner or operator shall be inspected for evidence of erosion, leakage, animal damage, cracking, excessive vegetation, or discharge.
- ~~(f)~~ (6) Inspect liquid manure volume weekly and note in the operating record the level of liquid manure in manure storage or treatment facilities by the depth marker required in paragraph (D)(15) ~~(A)(4)(e)~~ of this rule.
- ~~(g)~~ (7) Document in the operating record procedures to ensure proper operation and maintenance of liquid manure in storage or treatment facilities, when manure and manure residuals are removed from the manure storage pond or manure treatment lagoon. The owner or operator shall take care to prevent damage to lagoon or pond dikes and liners when manure residuals are removed.
- ~~(h)~~ (8) Inspect to determine that all stormwater conveyances are maintained to keep runoff from the surrounding property and buildings and stormwater shall be diverted away from the manure treatment lagoons and manure storage ponds to prevent any unnecessary addition to the liquid volume in these structures, unless they are designed for such runoff containment. Identify appropriate buffer strips or equivalent practices, to control runoff of manure to waters of the state, and divert clean water, as appropriate, out of the production area.

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- ~~(i)-(9)~~ Conduct weekly inspections of stormwater or diversion devices, runoff diversion structures, devices channeling contaminated stormwater to the manure storage pond or manure treatment lagoon and note proper operation and maintenance in the operating record.
- ~~(i)-(10)~~ Inspect the protective vegetative cover and any other approved means or materials for erosion control to determine that cover is maintained on all disturbed areas (lagoon or pond embankments, berms, pipe runs, erosion control areas, etc.).
- ~~(i)-(11)~~ Ensure that any emerging vegetation such as trees, shrubs and other woody species shall not be allowed to grow on the pond or lagoon dikes or side slopes. Pond or lagoon areas are to be kept mowed and accessible unless these areas are grassed waterways or buffers that manage precipitation and runoff.
- ~~(i)-(12)~~ Surface water and groundwater protection.
 - ~~(i)-(a)~~ Conduct annual sampling and analysis of ground water for nitrates and total coliform from a well as described by paragraph (A)(2)(e) or (B)(2)(d) of rule 901:10-2-03 of the Administrative Code. In the event that a well does not already exist at the facility and the operation is not an operation as described in paragraph (A)(1) of rule 901:10-2-03 of the Administrative Code or is not served by a public water system as defined by paragraph XXX of rule 901:10-1-01 of the Administrative Code, then the owner or operator shall install a well at the facility that is properly located, protected and operated. The well shall be easily accessible for sampling and have an adequate water quantity for sampling.
 - ~~(ii)-(b)~~ The director may require additional sampling, including but not limited to, ground water samples from any additional ground water monitoring wells installed as required in paragraph (C)(2) of rule 901:10-2-03 of the Administrative Code.
 - ~~(iii)-(c)~~ The director may require samples of manure discharges from the production area that may occur;
~~and~~
 - (d) The director may require monitoring or sampling, or both, of subsurface perimeter drains around manure storage or treatment facilities; and
 - ~~(iv)-(e)~~ Results of sampling and analysis shall be documented in the operating record and, for manure discharges from the production area, results shall also be recorded in the annual report submitted to the director in accordance with rule 901:10-2-20 of the Administrative Code.
- ~~(m)-(13)~~ Ensure proper management of dead livestock as required by rule 901:10-2-15 of the Administrative Code to ensure that there shall be no discharge of mortality to waters of the state and no disposal in a manure storage or treatment facility that is not specifically designed to treat animal mortalities.
- ~~(n)-(14)~~ Inspect drinking water lines daily, including drinking water or cooling water lines that are located above ground, readily visible or accessible for daily inspections, and record in the operating record.
- ~~(o)-(15)~~ All liquid manure in manure storage or treatment facilities must have a depth marker or other appropriate device as approved by the director in accordance with rule 901:10-2-05 or 901:10-2-06 of the Administrative Code which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the twenty-five year, twenty four hour rainfall event. In the case of new sources subject to the requirement in paragraph (D)(1) of rule 901:10-3-06 of the Administrative Code, all open surface manure storage structures associated with such sources must include a depth marker or

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other appropriate device as approved by the director in accordance with rule 901:10-2-05 or 901:10-2-06 of the Administrative Code which clearly indicates the minimum capacity necessary to contain the maximum runoff and direct precipitation associated with the design storm used in sizing the impoundment for no discharge.

~~(p)~~ (E) The director may determine that the monitoring required in paragraphs (D)(6), (D)(14), and (D)(15) ~~(A)(4)(f), (A)(4)(n) and (A)(4)(o)~~ of this rule may use alternative monitoring devices. Alternative monitoring devices include, but are not limited to, sensors, remote sensors, electronic alarms, wireless receivers, other real time warning systems, or other flow control structure, or other steady state overflow structures.

~~(i)~~ (1) The owner or operator shall identify the alternative monitoring devices in the manure management plan submitted to the director. In approving the manure management plan, the director may approve the alternative monitoring devices.

~~(ii)~~ (2) The director may notify the owner or operator in writing to cease use of alternative monitoring devices if at any time that the director or the director's representative find that the operating record and documents maintained as required by this rule contain false or misleading information.

~~(q)~~ (F) ~~Actions to be taken means actions to correct any~~ Any deficiencies found as a result of the inspections conducted under this rule. ~~Deficiencies~~ are to be corrected as soon as possible and listed in the operating record in accordance with rule 901:10-2-16 of the Administrative Code.

901:10-2-11 Contents of manure management plan: distribution and utilization methods.

(A) If the owner or operator elects to use distribution and utilization methods, for any quantity of manure that is not managed under the control of the owner or operator, the following is required:

(1) If the owner or operator decides to use livestock manure brokers or auctions or farm sales for distribution and utilization, the owner or operator shall submit distribution and utilization methods for the beneficial use of the manure as part of the manure management plan as required by rule 901:10-2-09 of the Administrative Code. The permitted facility operating record shall include copies of the acknowledgements between the owner and operator of the facility and livestock manure brokers made pursuant to auctions or farm sales. The facility operating acknowledgement shall include the following statement:

"I have been provided with a copy of the analytical results that list the nutrient content of the manure and total quantities of manure and copies of the applicable requirements of rule 901:10-2-14 of the Administrative Code. The manure will be distributed and utilized according to the best management practices and according to any state laws regulating these uses."

~~(a) (a) "I have been provided with a copy of the analytical results that list the nutrient content of the manure and total quantities of manure and copies of the applicable requirements of rule 901:10-2-14 of the Administrative Code. The manure will be distributed and utilized according to the best management practices and according to any state laws regulating these uses."~~

(2) If the owner or operator decides to use distribution and utilization methods then the owner or operator shall provide a copy of appendices A and F to rule 901:10-2-14 of the Administrative Code, and a copy

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of the most recent analytical results that list the nutrient content of the manure based on an analysis consistent with the rules to the manure recipient. The permitted facility operating record shall include the name and address of the manure recipient, the date of distribution, and the approximate amount of manure in tons or gallons distributed on that date and an acknowledgement by the manure recipient as follows:

"I have been provided with a copy of the analytical results that list the nutrient content of the manure and total quantities of manure and copies of the applicable requirements of rule 901:10-2-14 of the Administrative code. The manure will be distributed and utilized according to the best management practices and according to any state laws regulating these uses."

- (3) In addition to the information in paragraph (A)(2) of this rule, if the owner or operator decides to use distribution and utilization methods for liquid manure, then the owner or operator shall also provide a copy of appendix B, the available water capacity chart that illustrates how to comply with the requirements of rule 901:10-2-14 of the Administrative Code.
- (B) All of the information in paragraphs (A)(1) to (A)(3) of this rule shall be recorded in the operating record as described in rule 901:10-2-16 of the Administrative Code.
- (C) An estimated amount of total manure transferred to other persons by the owner or operator in the previous twelve months (tons/gallons) shall be reported in the annual report required by rule 901:10-2-20 of the Administrative Code, as well as the operating record.
- (D) If the owner or operator is notified by the director, or otherwise becomes aware that the recipient is not in compliance with rule 901:10-1-06 of the Administrative Code or best management practices set forth in Chapter 1501:15-5 of the Administrative Code or with other applicable laws and rules, the owner or operator shall cease providing manure to the recipient until written authorization to continue is provided by the department.

~~{Comment: Distribution and utilization may include land application, composting, vermiculture and alternative fuel source uses.}~~

901:10-2-12 Contents of manure management plan: methods to minimize odors.

A manure management plan shall include best management practices to minimize odors. These best management practices shall be identified in the manure management plan and shall be compatible with the overall content of the manure management plan. These best management practices may include, but is not limited to, the following:

- ~~(A) (A) A manure management plan shall include best management practices to minimize odors. These best management practices shall be identified in the manure management plan and shall be compatible with the overall content of the manure management plan. These best management practices may include the following:~~
- ~~(1) (A)~~ Remove, transfer and land apply manure at optimum temperatures;
- ~~(2) (B)~~ Remove, transfer and land apply manure when wind direction is less likely to affect neighboring residences;

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- ~~(3)~~ (C) Promptly inject or incorporate manure to minimize odors; or
- ~~(4)~~ (D) If manure is applied by spray irrigation, use appropriate pressure and nozzles.
- ~~(5)~~ (E) Additional controls on odor are included in the appendix to rule 901:10-2-06 of the Administrative Code. The information appended to rule 901:10-2-06 of the Administrative Code includes manure storage or treatment facilities that control and promote additional treatment reduction of odor.

901:10-2-16 Permit to operate and operating record requirements.

- (A) An operating record shall be generated as part of the permit to operate and NPDES permit.

The operating records shall be maintained on forms identified by the permit and other forms approved for use by the department. The operating record shall be retained for a minimum period of five years, shall be made available to the director upon request, and shall record and document the following information:

- ~~(1)~~ (1) ~~The operating records shall be maintained on forms identified by the permit and other forms approved for use by the department. The operating record shall be retained for a minimum period of five years, shall be made available to the director upon request, and shall record and document the following information:~~
- ~~(a)~~ (1) The manure storage or treatment facility. Records required by rule 901:10-2-08 or 901:10-2-19 of the Administrative Code, including:
 - ~~(i)~~ (a) Measurements of manure volume and the depth of liquid manure in manure storage or treatment facilities by the depth marker or other appropriate device as approved by the director in accordance with rule 901:10-2-06 of the Administrative Code as required by paragraph (A)(4)(o) of rule 901:10-2-08 of the Administrative Code which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the twenty-five year, twenty-four hour rainfall event, or, in the case of new sources subject to the requirement in paragraph (C) of rule 901:10-3-06 of the Administrative Code, the runoff and direct precipitation from a one-hundred year, twenty-four hour rainfall event, plus the levels of freeboard as required in either paragraph (A)(4)(a) or paragraph (A)(4)(b) of rule 901:10-2-08 of the Administrative Code;
 - ~~(ii)~~ (b) Records of inspections of the structural integrity and vegetative management systems of the manure storage or treatment facility taken at intervals specified in the manure management plan and including evidence of erosion, leakage, animal damage, and problems of emerging vegetation..
 - ~~(iii)~~ (c) Records of measurements of storage capacity remaining in the manure storage and treatment facility, based upon inspections conducted at intervals specified in the manure management plan.
 - ~~(iv)~~ (d) Records of inspections of stormwater conveyances, diversion devices, runoff diversion structures, and devices channeling contaminated stormwater to the manure storage pond or manure treatment lagoon..
 - ~~(v)~~ (e) Records of inspections of the protective vegetative cover that is maintained on all disturbed areas (lagoon or pond embankments, berms, pipe runs, erosion control areas, etc.)
 - ~~(vi)~~ (f) Implementation dates of those best management practices necessary to operate and maintain settling basins, grass filtration or soil infiltration systems or diverting clean water and roof water

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away from the production area..

~~(vii)~~ (g) Records of groundwater sampling and analysis and any surface water sampling and analysis. This also includes any records associated with monitoring or sampling of subsurface perimeter drains around manure storage or treatment facilities.

~~(viii)~~ (h) Records required in rule 901:10-2-19 of the Administrative Code for the insect and rodent control plan.

~~(ix)~~ (i) Records of inspections of water lines located above ground and readily accessible or visible for daily inspection, including drinking water or cooling water lines.

~~(x)~~ (j) Records of actions taken to correct any deficiencies found as a result of inspections conducted in the production area. If actions were not taken within thirty days of discovery, then the operating record shall record the reasons explaining why corrections could not be made immediately.

~~(xi)~~ (k) Records documenting the current design of any manure storage or treatment facility including volume for solids accumulation, design treatment volume, total design volume, and approximate number of days of storage capacity.

~~(xii)~~ (l) Records of the date, time, and estimated volume of any overflow or discharge from the production area.

~~(b)~~ (2) ~~Manure characterization records.~~ Manure characterization data, test methods, results, and other information as required in paragraph (E) of rule 901:10-2-10 of the Administrative Code.

~~(e)~~ (3) Land application area records shall be recorded and maintained in the operating record. Records for each land application area shall include:

~~(i)~~ (a) The owner or operator shall maintain or have access to adequate land application equipment and record this in the operating record.

~~(ii)~~ (b) The owner or operator shall list or otherwise describe those acres of land in the operating record for land application of manure, whether the land is owned or leased. In the alternative, use of a distribution and utilization plan should be recorded in the operating record.

~~(iii)~~ (c) When liquid manure is applied to a land application area with subsurface drains and concentrated flow areas, document the periodic observations of the subsurface drain outlets and concentrated flow areas for liquid manure flow during and after application in the operating record.

~~(iv)~~ (d) When liquid manure is applied to a land application area with a subsurface drain, document the use of drain outlet plugs or other devices in the operating record.

~~(v)~~ (e) Land application areas as described on a soil survey map.

~~(vi)~~ (f) All soil tests within the last five years. Soil test results shall be maintained in the operating record with the information required in rule 901:10-2-13 of the Administrative Code.

~~(vii)~~ (g) Site inspections to inspect setbacks used to maintain vegetative cover and protect stream channels or areas adjacent to such stream channels and as required by rule 901:10-2-14 of the

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Administrative Code.

- ~~(viii)~~ (h) Records of the cropping schedule for each land application area for the past year, anticipated crops for the current year, and anticipated crops for the next two years after the current year.
- ~~(ix)~~ (i) Targeted crop yield for each crop in each land application area based on:
 - ~~(a)~~ (i) Soil productivity information;
 - ~~(b)~~ (ii) Historical yield data;
 - ~~(c)~~ (iii) Potential yield; or
 - ~~(d)~~ (iv) Combinations of yield data.
- ~~(x)~~ (j) An additional ten per cent may be added to the potential and/or historical yields to account for improvements in management and technology.
 - ~~(a)~~ (i) When historical yield data is not available a realistic yield may be based on local research or on yields from similar soils and/or cropping systems in the area.
 - ~~(b)~~ (ii) For new or potential crops or varieties, industry yield estimates may be used until actual yields are available for documentation in the operating record.
- ~~(xi)~~ (k) Actual yield, if available.
- ~~(xii)~~ (l) Results of the nitrogen leaching risk assessment procedure and the phosphorus soil test assessment procedure and an explanation of the basis for determining manure application rates, as provided in rule 901:10-2-14 of the Administrative Code.
- ~~(xiii)~~ (m) The number of years needed to reach one hundred fifty parts per million Bray P1 or equivalent if manure application rates exceed the phosphorus crop removal rates.
- ~~(xiv)~~ (n) Date, rate, quantity and method of application of the nutrient, and/or form and source of manure, commercial fertilizer and/or other organic by-products.
- ~~(xv)~~ (o) Total amount of nitrogen and phosphorus actually applied to each field, including documentation of calculations for the total amount applied.
- ~~(xvi)~~ (p) Condition of soil at the time of application including, but not limited to, available water capacity and evidence of soil cracks and related information on soil conditions.
- ~~(xvii)~~ (q) Temperature, including general weather conditions at time of application and for twenty-four hours prior to and following application..
- ~~(xviii)~~ (r) Implementation dates of those best management practices necessary to reduce the risk of nitrogen or phosphorus runoff by crop rotation, cover crops or residue management in accordance with paragraphs (B) to (E) of rule 901:10-2-14 of the Administrative Code.
- ~~(xix)~~ (s) Record the annual projected nutrient budget for nitrogen and phosphorus for each site for the plant production sequence and/or crop rotation.
- ~~(xx)~~ (t) Records shall be maintained of annual calibration of land application equipment.

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- ~~(4)~~ (4) Unless otherwise recorded with the insect and rodent control plan implementation or land application records, records of inspections and actions taken at manure stockpile or manure transfer sites.
- ~~(e)~~ (5) The records for implementation of distribution and utilization methods, if used, shall include:
- ~~(i)~~ (a) Quantity of manure transferred off-site for each twelve month period (tons/gallons);
 - ~~(ii)~~ (b) Date of off-site transfer for distribution;
 - ~~(iii)~~ (c) Name and address of recipient of manure; and
 - ~~(iv)~~ (d) Record that the recipient was provided with a copy of the appendices A, B and F to rule 901:10-2-14 of the Administrative Code, a copy of the most recent manure analysis consistent with the rules.
- ~~(f)~~ (6) Disposal of dead livestock. The records for implementing the plan for the disposal of dead livestock shall include, but not be limited to:
- ~~(i)~~ (a) The disposal method used for removal of dead livestock;
 - ~~(ii)~~ (b) A record of the date and time of inspection of each facility; and
 - ~~(iii)~~ (c) Those best management practices necessary to implement the disposal of dead livestock.
- (B) Records shall be generated by certified livestock managers to comply with the requirements of rule 901:10-1-06 of the Administrative Code. The operating records shall be maintained on forms approved for use by the department. A certified livestock manager employed by a major concentrated animal feeding facility may use the major concentrated animal feeding facility's operating record to comply with the requirements of this rule and rule 901:10-1-06 of the Administrative Code, to the extent the records required to be kept by the certified livestock manager are already maintained in the facility's operating record. The operating record for a certified livestock manager shall be retained for a minimum period of five years, shall be made available to the director upon request, and shall record and document the following information:
- (1) Records shall be maintained for each land application area.
 - (2) The certified livestock manager shall list or otherwise describe the acres of land for land application of manure.
 - (3) When liquid manure is applied to a land application area with subsurface drains and concentrated flow areas, documentation shall be made of the periodic observations of subsurface drains, drain outlet plugs, drain outlets or other devices for liquid manure flow during and after application in the operating record. Monitoring of concentrated flow areas during and after application shall also be documented.
 - (4) All soil tests within the last five years. Soil test results shall be maintained in the operating record with the information required in rule 901:10-2-13 of the Administrative Code.
 - (5) Site inspections to inspect setbacks used to maintain vegetative cover and protect stream channels or areas adjacent to such stream channels and as required by rule 901:10-2-14 of the Administrative Code.
 - (6) Date, rate, quantity and method of application sources of the nitrogen and phosphorus, and/or form and source of manure, commercial fertilizer and/or other organic by-products.
 - (7) Total amount of nitrogen and phosphorus actually applied to each field, including documentation of

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calculations for the total amount applied.

- (8) Condition of soil at the time of application including, but not limited to, available water capacity and evidence of soil cracks and related information on soil conditions.
- (9) Temperature, including general weather conditions at time of application and for twenty-four hours prior to and following application.
- (10) Records shall be maintained of annual calibration of land application equipment.

901:10-2-19 Permit to operate: insect and rodent control plan.

(A) Purpose and applicability.

- (1) This rule establishes the best management practices to minimize the presence and negative effects of insects and rodents at the concentrated animal feeding facility and in surrounding areas, including land on which the manure is stored or applied. Subject to the requirements set forth in rules 901:10-2-07 and 901:10-2-08 of the Administrative Code, and rule 901:10-1-06 of the Administrative Code no person shall own or operate a concentrated animal feeding facility unless an insect and rodent control plan for the facility has been approved by the director.

~~{Comment: In preparing the plan, the owner or operator is advised to refer to the Food Quality Protection Act (FQPA); Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); and worker protection standards (WPS).}~~

- (2) An insect and rodent control plan that specifies plans to minimize the activity of insects and rodents and their presence at the facility is to be integrated with other requirements of the permit to operate in accordance as set forth in rules 901:10-2-07 to 901:10-2-19 of the Administrative Code.

(B) Contents of an insect and rodent control plan.

- (1) An insect and rodent control plan shall be prepared by the owner or operator and shall be submitted to the director for approval. Upon approval by the director, the insect and rodent control plan shall be incorporated into the permit to operate. The insect and rodent control plan shall be specific to the agricultural animal species of the facility.
- (2) An insect and rodent control plan shall:
 - (a) Include a narrative description of balanced integrated pest management to minimize the presence and negative effects of insects and rodents;
 - (b) Set forth with specificity the standard operating procedures for actions to minimize the activity and reduce the presence of insects and rodents at the facility; and
 - (c) Set forth methods of monitoring and procedures for record keeping in the operating record to document inspection results and actions performed.

~~{Comment: The department may make available scientific references concerning the methods for monitoring and recommendations for control of insect and rodent populations to owners or operators or direct them to other resources.}~~

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- (3) Standard operating procedures set forth in paragraphs (B)(3)(a) to (B)(3)(d) and paragraph (C) of this rule set forth some but not all of the necessary integrated pest management actions to minimize the activity and reduce the presence of insects and rodents at the facility.
- (a) Management controls. The following management controls require regular inspections to be conducted by the owner or operator in intervals as described in the insect and rodent control plans. Monitoring records and inspection records shall be maintained in the operating record as required by rule 901:10-2-16 of the Administrative Code. Management controls consist of the following:
- (i) The owner or operator shall specify inspection intervals in the insect and rodent control plan and shall conduct and document inspections as specified in the plan.
 - (ii) The owner or operator shall inspect for the presence or absence of watering and feeding system leaks. If any leaks are detected, appropriate repairs shall be undertaken promptly.
 - (iii) The owner or operator shall inspect and record observations made regarding the presence and level of pest activity. Appropriate control actions shall be undertaken promptly when activity of insects and rodents is observed that requires actions as described in the plan required by paragraph (B)(2) of this rule.
 - (iv) The owner or operator shall manage moisture levels in manure to minimize the activity and reduce the presence of insects and rodents at the facility. Methods to control moisture may include but are not limited to: building design; adequate ventilation; mechanical aeration; leak detection and repair; proper site grading and drainage and maintenance of watering and feeding systems.
 - (v) Except for manure storage ponds and manure treatment lagoons, manure storage or treatment facilities shall be covered unless the runoff and drainage is collected and stored, or directed to a specifically designed infiltration area or other adequate treatment system. Appropriate control actions shall be undertaken prior to the removal of manure to minimize the activity and reduce the presence of insects and rodents at the facility.
 - (vi) Except for manure storage ponds and manure treatment lagoons, the owner or operator shall inspect manure storage or treatment facilities for pest activity prior to the removal of manure. Appropriate control actions shall be undertaken prior to the removal of manure to minimize the activity and reduce the presence of insects and rodents.
 - (vii) The owner or operator shall inspect land application areas during and after the land application of manure.
 - (viii) The owner or operator shall monitor manure stockpiles for insect and rodent activity on a seasonally appropriate basis.
- (b) The following management actions are required but do not require record keeping and consist of the following:
- (i) Maintain sanitation procedures designed to minimize the activity and reduce the presence of insects and rodents including: maintenance of vegetation around the buildings; cleaning of the facility; removal of dead or trapped animals at a frequency that prevents their accumulation and utilization of covered receptacles for food, feed, dead animals or refuse that are durable, cleanable, inaccessible to insects or rodents, leak proof and nonabsorbent;

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- (ii) Buildings shall be maintained and managed in such a manner as to minimize the activity and reduce the presence of insects and rodents. The director may consider the function, purpose and age of the buildings;
 - (iii) The owner or operator shall maintain or have prompt access to appropriate insect and rodent control equipment;
 - (iv) The owner or operator shall maintain or have prompt access to suitable cleaning implements and supplies as necessary for effective cleaning of the facility; and
 - (v) The owner or operator shall maintain or have prompt access to insect and rodent monitoring methods and devices.
- (c) Biological controls may be used to minimize the activity and reduce the presence of insects and rodents as part of integrated pest management. Biological controls shall include standard operating procedures designed to encourage the development and preservation of beneficial organisms.

~~Comment:~~ Beneficial organisms may be appropriate when contained within the facility but may not be appropriate when removed from the facility. Prior to manure removal, the owner or operator is advised to evaluate the potential effects of beneficial organisms outside of the facility, e.g., at any site used for land application of manure.†

- (d) Chemical controls may be used to minimize the activity and reduce the presence of insects and rodents as part of integrated pest management.

~~Comment:~~ Utilization of chemical controls may require, but not be limited to, asking the owner or operator to become a certified pest control applicator and keep accurate records on methods or products used and on dosage rates under Chapter 921. of the Revised Code.†

- (e) Utilization of chemical controls may include, but not be limited to the following:

- (i) Insecticides, larvicides, rodenticides, space sprays, fly baits, vapor strips;
- (ii) Chemical application equipment; and
- (iii) Inside and outside control measures.

(C) Storing, stockpiling and land applying manure.

- (1) The insect and rodent control plan shall be consistent with the manure management plan in order to minimize the activity and reduce the presence of insects and rodents at the facility and shall include both the manure storage or treatment facility and the land application area.
- (2) The storing, stockpiling and land application of manure shall be done in accordance with standard operating procedures set forth in this paragraph and in the owner or operator's insect and rodent control plan in order to minimize the activity and reduce the presence of insects and rodents. These standard operating procedures may include but are not limited to:
 - (a) Treatment of pests at the land application site;
 - (b) Setback distances during land application that are consistent with the manure management plan for

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the facility and with rule 901:10-2-14 of the Administrative Code;

- (c) Extended stockpiling times after removal from the facility for thermal treatment and prior to land application;
 - (d) Covering of the manure storage or treatment facility or covering the stockpile for thermal treatment;
 - (e) Implementing appropriate control measures for manure staged or stockpiled more than one week; and
 - (f) Chemical treatment of the manure at the facility prior to the removal of manure from the manure storage or treatment facility, monitoring and observing fields spread with that manure for pest activity during application, and a final inspection of those fields when applications are complete;
 - (g) If the presence of insect and rodent activity is not minimized and/or reduced prior to the removal of manure from the manure storage or treatment facility, the owner or operator shall visually monitor and observe fields spread with that manure for pest activity during application and shall conduct a final inspection of those fields when applications are complete.
- (D) Emergency procedures. Each facility shall develop and maintain emergency procedures of action in order to minimize the activity and reduce the presence of insects and rodents at the facility.
- (E) Compliance. Compliance with an insect and rodent control plan shall be determined as follows:
- (1) Before proceeding with the procedures set forth in rule 901:10-5-03 of the Administrative Code, the director shall review the operating record, together with the insect and rodent control plan, examine any records of management actions taken, records of implementation of standard operating procedures and other appropriate control actions, and any monitoring data collected in the operating record.
 - (2) The director shall determine if insect and rodent activity has been minimized and the presence of the insects and rodents reduced by evaluating the records and assessing trends and making visual observations at the facility as evidenced by implementation of the insect and rodent control plan over an appropriate period of time and during periodic inspections at the facility. In making this determination for an appropriate period of time, consideration will be given, but not limited to the following: prevailing wind patterns, siting criteria, precipitation patterns, seasonal effects and weather conditions.
 - (3) Upon completion of the evaluation described in paragraphs (E)(1) and (E)(2) of this rule, the director may do the following:
 - (a) If the owner or operator is in compliance with the plan, the director may seek voluntary action by the owner or operator to modify the insect and rodent control plan including but not limited to further minimizing and reducing the activity and presence of insects and/or rodents at the facility; or
 - (b) If the owner or operator will not consent to modifying the plan, or if the owner or operator is not in compliance with the plan, then the director may propose to modify the insect and rodent control plan or the owner or operator may submit an application to modify the plan, in accordance with the procedures in rule 901:10-1-09 of the Administrative Code.
 - (4) The director is not required to comply with paragraphs (E)(1) to (E)(3) of this rule if the director determines:
 - (a) An emergency exists as described in rule 901:10-5-05 of the Administrative Code; or

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- (b) In consultation with federal, state or local health agencies, the director determines that there exists a high risk of zoonotic disease.
- (F) Criteria for approving, disapproving or modifying an insect and rodent control plan including any major operational change to an insect and rodent control plan..
 - (1) The director shall consider the following criteria in determining an action on an insect and rodent control plan:
 - (a) Compliance with paragraphs (B) to (D) of this rule.
 - (b) Completeness and appropriateness of the methods for disposal of rodents on a daily or weekly basis or if there is an emergency. The director will require compliance with rule 901:10-2-15 of the Administrative Code.
 - (c) In order to comply with rule 901:10-1-09 of the Administrative Code for any proposed major operational change of the insect and rodent control plan, the owner or operator shall:
 - (i) Demonstrate that insect and rodent activity has been minimized; or
 - (ii) Demonstrate that the proposed major operational change will improve the management of pests; and
 - (iii) Authorize the director or the director's representative to evaluate the operating records and assess trends and make visual observations at the facility of implementation of the insect and rodent control plan over an appropriate period of time and during periodic inspections at the facility. In making a determination under this paragraph and rule 901:10-1-09 of the Administrative Code, the director may consider the following: prevailing wind patterns, siting criteria, precipitation patterns, seasonal effects, weather conditions, and applicable scientific and technical references for monitoring and control of insect and rodent populations.
 - (2) The director must act upon, approve or deny an insect and rodent control plan within ninety days of receiving it.
- (G) Penalties. The director or his designated representative will determine civil penalties for violations of this rule in accordance with the rule 901:10-5-04 of the Administrative Code.

901:10-2-20 Annual report.

The owner or operator of a concentrated animal feeding operation with a permit must submit an annual report to the director. The annual report must include:

- (A) The number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, chickens other than laying hens, swine weighing fifty-five pounds or more, swine weighing less than fifty-five pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
- (B) Estimated amount of total manure generated by the facility in the previous twelve months (tons/gallons);
- (C) Provide the ~~Estimated~~ amount of total manure transferred to other persons by the facility as recorded in the

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[operating record](#) in accordance with rule 901:10-2-11 of the Administrative Code;

- (D) Total number of acres for land application covered by the manure management plan developed in accordance with rule 901:10-2-07 of the Administrative Code;
- (E) Total number of acres under control of the facility that were used for land application of manure in the previous twelve months;
- (F) Summary of all manure discharges from the production area that have occurred in the previous twelve months, including date, time, and approximate volume; and
- (G) A statement indicating whether the current version of the facility's manure management plan was developed or approved by a certified nutrient management planner.
- (H) For NPDES permit annual reports, the actual crop(s) planted and actual yield(s) for each land application area under the control of the facility, the actual nitrogen and phosphorus content of the manure from each manure storage or treatment facility, the results of calculations conducted in accordance with paragraph (D)(1)(g)(ix) of rule 901:10-3-01 of the Administrative Code, the amount of manure applied to each land application area under the control of the facility during the previous twelve months, the results of any soil testing for nitrogen and phosphorus taken during the preceding twelve months, the data used in calculations conducted in accordance with paragraph (D)(1)(g)(ix) of rule 901:10-3-01 of the Administrative Code, and the amount of any supplemental fertilizer applied during the previous twelve months.

901:10-3-01 Additional requirements for a NPDES permit application.

- (A) Concentrated animal feeding operations must have or seek to obtain coverage under a NPDES permit within the time frame provided in accordance with 40 C.F.R. 122.23(f) and in division (J) of section 903.08 of the Revised Code.
- (B) Unless otherwise indicated, the application for an individual NPDES permit and the NPDES permit (if issued by the director) shall contain the following information:
 - (1) The information required in rule 901:10-1-02 of the Administrative Code for NPDES permits.
 - (2) To the extent required by federal law, a manure management plan that complies with the requirements of rules 901:10-2-08 to 901:10-2-11, 901:10-2-13 to 901:10-2-16 and rule 901:10-2-18 of the Administrative Code.
 - (a) Inspections required in rule 901:10-2-08 of the Administrative Code.
 - (b) Information on nutrient budget, manure characterization, soil tests, distribution and utilization methods for manure (if applicable to the facility), and land application of manure as required in rules 901:10-2-09 to 901:10-2-14 of the Administrative Code.
 - (3) An operating record developed in accordance with rule 901:10-2-16 of the Administrative Code with the use of forms prescribed by the director and other forms selected by the owner or operator for the facility and approved by the director. The operating record shall be maintained at the site office at all times. Upon approval of the NPDES permit, the operating record shall be deemed part of the NPDES permit.
 - (4) An emergency response plan containing the information required in rule 901:10-2-17 of the

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Administrative Code.

- (C) Any person who discharges or proposes to discharge pollutants and who does not have an effective NPDES permit, except persons covered by a general NPDES permit, must submit a complete application to the director in accordance with this rule. The director shall not issue a NPDES permit before receiving a complete application for a NPDES permit except NPDES general permits. An application for a NPDES permit is complete when the director receives an application form and any supplemental information which are completed to his or her satisfaction. All applicants for NPDES permits must provide the following information to the director:
- (1) The activities conducted by the applicant, which require it to obtain a NPDES permit;
 - (2) The following information about the applicant's facilities:
 - (a) Information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, chickens other than layers, swine weighing fifty-five pounds or more, swine weighing less than fifty-five pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
 - (b) The types of manure storage areas, waste containment areas, and total capacity for manure storage (tons/gallons);
 - (c) The total number of acres under control of the applicant available for land application of manure;
 - (d) Estimated amounts of manure generated per year (tons/gallons);
 - (e) Estimated amounts of manure transferred to other persons per year (tons/gallons); and
 - (f) For operations that must seek coverage under a permit after December 31, 2006, certification that a nutrient management plan has been completed and will be implemented upon the date of permit coverage.
 - (3) The name and address of the owner and operator and information required by paragraph (C)(1) of rule 901:10-2-01 of the Administrative Code;
 - (4) Whether the operation is located on Indian lands;
 - (5) A listing of all permits or construction approvals received or applied for under any of the following programs:
 - (a) Hazardous waste management program under the Resource Conservation and Recovery Act (RCRA);
 - (b) Underground injection control (UIC) program under the Safe Drinking Water Act (SDWA);
 - (c) The "Prevention of Significant Deterioration" (PSD) program under the Clean Air Act;
 - (d) Non-attainment program under the Clean Air Act;
 - (e) "National Emissions Standards for Hazardous Pollutants" (NESHAPS) preconstruction approval under the Clean Air Act;
 - (f) Dredge or fill permits under section 404 of the Clean Water Act;

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- (g) Other relevant environmental permits, including state permits;
 - (6) Latitude and longitude of the production area (entrance to the production area); and
 - (7) A topographic map of the geographic area in which the concentrated animal feeding operation is located showing the specific location of the production area.
- (D) Purpose and applicability of the individual NPDES permit.

Persons that have been issued a NPDES permit by the director are required to comply with the following requirements as determined by the director:

- ~~(1)~~ (1) ~~Persons that have been issued a NPDES permit by the director are required to comply with the following requirements as determined by the director:~~
- ~~(a)~~ (1) Rule 901:10-3-10 of the Administrative Code;
 - ~~(b)~~ (2) Rules 901:10-3-02 to 901:10-3-06 of the Administrative Code;
 - ~~(c)~~ (3) Applicable water quality standards adopted under section 6111.041 of the Revised Code;
 - ~~(d)~~ (4) National standards of performance for new sources;
 - ~~(e)~~ (5) The antidegradation policy adopted under section 6111.12 of the Revised Code;
 - ~~(f)~~ (6) Other applicable requirements of the act; and,
 - ~~(g)~~ (7) The terms of the concentrated animal feeding operation's manure management plan. For purposes of NPDES permitting, the terms of the manure management plan are the information, protocols, best management practices, and other conditions in the manure management plan determined by the director to be necessary to meet the following requirements:
 - ~~(i)~~ (a) Ensure adequate storage of manure, including procedures to ensure proper operation and maintenance of manure storage or treatment facilities. These requirements include the operating levels, freeboard, and inspections for manure storage or treatment facilities established in the manure management plan pursuant to paragraphs (D)(1) to (D)(3) and (D)(5) to (D)(7) ~~(A)(4)(a) to (A)(4)(c) and (A)(4)(e) to (A)(4)(g)~~ of rule 901:10-2-08 of the Administrative Code;
 - ~~(ii)~~ (b) Ensure proper management of livestock mortalities as required in paragraph (A)(4)(m) of rule 901:10-2-08 and rule 901:10-2-15 of the Administrative Code to ensure that there shall be no discharge of pollutants from mortalities to waters of the state and no disposal in a manure or storm water storage or treatment facility that is not specifically designed to treat animal mortalities;
 - ~~(iii)~~ (c) Ensure that clean water is diverted, as appropriate, from the production area, in accordance with paragraph (D)(8) ~~(A)(4)(h)~~ of rule 901:10-2-08 of the Administrative Code;
 - ~~(iv)~~ (d) Prohibit direct contact of confined animals with waters of the state as required in paragraph (A) of rule 901:10-2-08 of the Administrative Code;
 - ~~(v)~~ (e) Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure or storm water storage or treatment facility that is not specifically designed to treat such chemicals and

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other contaminants, as required by paragraph (D)(4) ~~(A)(4)(d)~~ of rule 901:10-2-08 of the Administrative Code;

- ~~(vi)~~ (f) Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the state, as required in paragraph (D)(8) ~~(A)(4)(h)~~ of rule 901:10-2-08 of the Administrative Code;
- ~~(vii)~~ (g) Identify the protocols for appropriate testing of manure and soil as required in rules 901:10-2-10 and 901:10-2-13 of the Administrative Code;
- ~~(viii)~~ (h) Identify specific records that will be maintained as required by paragraphs (A)(1)(a) to (A)(1)(f), (A)(1)(k) to (A)(1)(l), (A)(2), (A)(3)(b) to (A)(3)(s), and (A)(6) ~~(A)(1)(a)(i) to (A)(1)(a)(vii), (A)(1)(a)(xi) to (A)(1)(a)(xii), (A)(1)(b), (A)(1)(c)(ii) to (A)(1)(c)(xix), and (A)(1)(f)~~ of rule 901:10-2-16, to the extent they are applicable to the facility's manure management plan;
- ~~(ix)~~ (i) Establish protocols to land apply manure in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure. The terms of the manure management plan, with respect to protocols for land application of manure, include the land application areas identified as available pursuant to paragraph (C) of rule 901:10-2-09 of the Administrative Code; the field-specific rates of application properly developed, pursuant to the requirements of rule 901:10-2-14 of the Administrative Code, to ensure appropriate agricultural utilization of the nutrients in the manure; and any timing limitations identified in the manure management plan concerning land application on the land application areas. The terms must address rates of application using the approach set forth below, consistent with the requirements of rule 901:10-2-14 of the Administrative Code.
- ~~(a)~~ (i) The terms include the maximum amounts of nitrogen and phosphorus derived from all sources of nutrients, for each crop identified in the manure management plan, in chemical forms determined to be acceptable to the Director, in pounds per acre, for each land application area, and certain factors necessary to determine such amounts. At a minimum, the factors that are terms must include: the outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field determined pursuant to paragraphs (D) and (E) of rule 901:10-2-14 of the Administrative Code; the planned crops to be planted in each field or any other uses such as pasture or fallow fields (including alternative crops identified in accordance with paragraph (D)(1)(g)(ix)(b) of this rule; the realistic yield goal for each crop or use identified for each land application area; and the nitrogen and phosphorus recommendations from appendix C, tables 1, 2, or 3 of rule 901:10-2-14 of the Administrative Code for each crop or use identified for each field. In addition, the terms include the methodology by which the manure management plan accounts for the following factors when calculating the amounts of manure to be land applied: Results of soil tests; credits for all nitrogen in the field that will be plant available; the amount of nitrogen and phosphorus in the manure to be applied; consideration of multi-year phosphorus application; accounting for all other additions of plant available nitrogen and phosphorus to the field; the form and source of manure; the timing and method of land application; and volatilization of nitrogen and mineralization of organic nitrogen. The methodology that must be used to account for each of these factors is set forth in rules 901:10-2-13 and 901:10-2-14 of the Administrative Code.
- ~~(b)~~ (ii) The terms of the nutrient management plan include alternative crops identified in the

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concentrated animal feeding operation's manure management plan that are not in the planned crop rotation. Where a concentrated animal feeding operation includes alternative crops in its manure management plan, the crops must be listed by land application area, in addition to the crops identified in the planned crop rotation for that land application area, and the manure management plan must include realistic crop yield goals and the nitrogen and phosphorus recommendations from appendix C, tables 1, 2, or 3 of rule 901:10-2-14 of the Administrative Code for each crop. Maximum amounts of nitrogen and phosphorus from all sources of nutrients and the amounts of manure to be applied must be determined in accordance with the methodology identified in paragraph (D)(1)(g)(ix)(a).

- ~~(e)~~ (iii) The following projections must be included in the manure management plan submitted to the director, but are not terms of the nutrient management plan: The concentrated animal feeding operation's planned crop rotations for each field for the period of permit coverage; the projected amount of manure to be applied; projected credits for all nitrogen in the field that will be plant available; consideration of multi-year phosphorus application; accounting for all other additions of plant available nitrogen and phosphorus to the field; and the predicted form, source, and method of application of manure, litter, and process wastewater for each crop. Timing of application for each field, insofar as it concerns the calculation of rates of application, is not a term of the manure management plan.
- ~~(d)~~ (iv) Concentrated animal feeding operations must calculate maximum amounts of manure to be land applied at least once each year using the methodology identified in paragraph (D)(1)(g)(ix)(a) of this rule before land applying manure and must rely on the following data:
 - ~~(i)~~ (a) A field-specific determination of soil levels of nitrogen and phosphorus, including, for nitrogen, a concurrent determination of nitrogen that will be plant available consistent with the methodology required by paragraph (D)(1)(g)(ix)(a) of this rule, and for phosphorus, the results of the most recent soil test conducted in accordance with the soil testing requirements set forth in rule 901:10-2-13 of the Administrative Code; and
 - ~~(ii)~~ (b) The results of most recent representative manure tests for nitrogen and phosphorus taken within twelve months of the date of land application in accordance with rule 901:10-2-10 of the Administrative Code, in order to determine the amount of nitrogen and phosphorus in the manure to be applied.

- (E) In establishing the terms and conditions of the NPDES permit, the director, to the extent consistent with the act, shall consider technical feasibility and economic costs and shall allow a reasonable period of time for coming into compliance with the permit.
- (F) In addition to conditions required in all permits to meet the requirements of rule 901:10-3-10 of the Administrative Code, the director shall establish conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the act and regulations. These shall include conditions under 40 CFR sections 122.44, 122.46, 122.47, 122.48 and 40 CFR Part 132 which establishes compliance schedules and authority to set interim compliance dates.

901:10-3-04 Dairy cows and cattle other than veal calves.

This rule applies to operations defined as concentrated animal feeding operations under division (F) of

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section 903.01 of the Revised Code and includes the following animals: mature dairy cows, either milking or dry; cattle other than mature dairy cows or veal calves. Cattle other than mature dairy cows includes but is not limited to heifers, steers, and bulls. This rule does not apply to such concentrated animal feeding operations with less than the following capacities: seven hundred mature dairy cows whether milked or dry; one thousand cattle other than mature dairy cows or veal calves.

(A) Effluent limitations attainable by the application of the best practicable control technology currently available (BPT). Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BPT:

(1) For the concentrated animal feeding operation production areas. Except as provided in paragraphs (A)(1) to (A)(2) of this rule, there must be no discharge of manure into waters of the state from the production area.

(a) Whenever precipitation causes an overflow of manure, pollutants in the overflow may be discharged into waters of the state provided:

(i) The production area is designed, constructed, operated and maintained to contain all manure including the runoff and the direct precipitation from a twenty-five year, twenty-four hour rainfall event;

(ii) The production area is operated in accordance with the requirements set forth in the manure management plan in rule 901:10-2-08 of the Administrative Code and the records required by rule 901:10-2-16 of the Administrative Code.

(b) Voluntary alternative performance standards. Any concentrated animal feeding operation subject to this rule may request the director to establish NPDES permit effluent limitations based upon site-specific alternative technologies that achieve a quantity of pollutants that would be discharged under the baseline performance standards as provided by paragraph (A)(1)(a) of this rule.

(i) Supporting information. In requesting site-specific effluent limitations to be included in the NPDES permit, the concentrated animal feeding facility owner or operator must submit a supporting technical analysis and any other relevant information and data that would support such site-specific effluent limitations within the time frame provided by the director. The supporting technical analysis must include calculation of the quantity of pollutants discharged, on a mass basis where appropriate, based on a site-specific analysis of a system designed, constructed, operated and maintained to contain all manure including the runoff from a twenty-five year, twenty-four hour rainfall event. The technical analysis of the discharge of pollutants must include:

(a) All daily inputs to the manure storage or treatment facility, including manure, direct precipitation, and runoff.

(b) All daily outputs from the manure storage or treatment facility, including losses due to evaporation, manure residuals removal, and the removal of process wastewater or process generated wastewater for use on cropland at the concentrated animal feeding operation or transport off site.

(c) A calculation determining the predicted median annual overflow volume based on a twenty-five year period of actual rainfall data applicable to the site.

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(d) Site-specific pollutant data, including N, P, BOD5, and total suspended solids (TSS) for the concentrated animal feeding operation from representative sampling and analysis of all sources of input to the storage system or other pollutant data.

(e) Predicted annual average discharge of pollutants, expressed where appropriate as a mass discharge on a daily basis (lbs/day), and calculated considering paragraphs (A)(1)(b)(i)(a) to (A)(1)(b)(i)(d) of this rule.

(ii) The director has the discretion to request additional information to supplement the supporting technical analysis, including inspection of the concentrated animal feeding operation.

(c) The concentrated animal feeding operation shall attain the limitations and requirements of this rule as of the date of permit coverage.

(2) For concentrated animal feeding operation land application areas.

Discharges from land application areas are subject to the following requirements:

(a) Develop and implement the best management practices set forth for the manure management plan in paragraph (A)(1) of rule 901:10-2-07 of the Administrative Code;

(b) Maintain the records specified in rule 901:10-2-16 of the Administrative Code; and

(c) The concentrated animal feeding operation shall attain the limitations and requirements of this rule by December 31, 2006.

(B) Effluent limitations attainable by the application of the best conventional pollutant control technology (BCT). Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BCT:

~~(1)-(1) Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BCT:~~

~~(a)-(1)~~ (1) For the concentrated animal feeding operation production areas: the operation shall attain the requirements in paragraph (A)(1) of this rule.

~~(b)-(2)~~ (2) For the land application areas: The operation shall attain the same limitations and requirements set forth for the manure management plan in paragraph (A)(2) of this rule.

(C) Effluent limitations attainable by the application of the best available technology economically achievable (BAT). Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BAT:

~~(1)-(1) Except as provided in rule 901:10-3-08 of the Administrative Code, any existing point source subject to this rule must achieve the following effluent limitations representing the application of BAT:~~

~~(a)-(1)~~ (1) For concentrated animal feeding operation production areas: The operation shall attain the same limitations and requirements set forth in paragraph (A)(1) of this rule.

~~(b)-(2)~~ (2) For the operation land application areas: the facility shall attain the same limitations and requirements as those set forth for the manure management plan in paragraph (A)(2) of this rule.

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(D) New source performance standards (NSPS). Any new point source subject to this rule must achieve the following effluent limitations representing the application of NSPS:

~~(1)-(1) Any new point source subject to this rule must achieve the following effluent limitations representing the application of NSPS:~~

~~(a)-(1)~~ (1) For the concentrated animal feeding operation production areas, the facility shall comply with the requirements of paragraph (A)(1) of this rule.

~~(b)-(2)~~ (2) For the land application areas, the operation shall attain the requirements as listed for the manure management plan in paragraph (A)(1) of rule 901:10-2-07 of the Administrative Code and the records required in rule 901:10-2-16 of the Administrative Code.

~~(c)-(3)~~ (3) The facility shall attain the limitations and requirements of this rule as of the date of permit coverage.

~~(d)-(4)~~ (4) Any source subject to this rule that commenced discharging after April 14, 1993 and prior to April 14, 2003 which was a new source subject to the standards specified in paragraph (C) of rule 901:10-3-03 of the Administrative Code, revised as of July 1, 2002, must continue to achieve those standards for the applicable time period specified in 40 CFR 122.29(d)(1). Thereafter, the source must achieve the standards specified in paragraphs (A)(1) and (A)(2) of this rule.

901:10-4-05 General operating permit.

A general permit to operate shall be effective from the date of issuance for a fixed term not to exceed five years. Holders of certificates of coverage under this permit shall comply with the following specified conditions and limitations.

(A) Applicability. "Concentrated animal feeding operation" or "CAFO" has the same meaning as division (F) of section 903.01 of the Revised Code and refers to those operations that are subject to the federally enforceable provisions of a permit into which NPDES requirements have been incorporated. "Concentrated animal feeding facilities" or "facilities" have the same meaning as division (E) of section 903.01 of the Revised Code and refer to those facilities that are subject to permits to operate. With respect to NPDES operations, the following requirements also apply to and are enforceable pursuant to the Act and to the extent authorized by federal law:

(1) The information required for NPDES permits in rule 901:10-1-02 of the Administrative Code;

(2) The information required in rule 901:10-3-01 of the Administrative Code except where general NPDES permits are specifically excluded;

(3) A manure management plan that complies with the requirements of rules 901:10-2-08 to 901:10-2-11, 901:10-2-13 to 901:10-2-16 and rule 901:10-2-18 of the Administrative Code;

(4) Inspections required in rule 901:10-2-08 of the Administrative Code;

(5) An operating record developed in accordance with rule 901:10-2-16 of the Administrative Code with the use of forms prescribed by the director and other forms selected by the owner or operator for the facility and approved by the director. The operating record shall be maintained at the site office at all times. Upon approval of the NPDES permit, the operating record shall be deemed part of the NPDES permit;

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(6) An emergency response plan containing the information required in rule 901:10-2-17 of the Administrative Code; and

(7) An annual report required in rule 901:10-2-20 of the Administrative Code.

(B) Performance standards.

(1) Compliance is required with rules 901:10-2-08 to 901:10-2-19 of the Administrative Code.

(2) The facility permitted under a general permit shall be effectively maintained and operated to prevent the discharge of pollutants to waters of the state. Facilities which are in compliance with their manure management plan (MMP) and a general permit which unintentionally discharge as a result of the twenty-five year, twenty-four hour storm event or greater will not be considered to be in violation of this permit.

(3) For new and existing facilities, the operating level of manure treatment lagoons and manure storage ponds in rule 901:10-2-06 of the Administrative Code must have at a minimum containment capacity at the prospective operating level that can also contain adequate storage for a twenty-five year, twenty-four hour storm event, one foot of freeboard and any additional storage required in the MMP.

(4) For new and expanding facilities, the operating level of fabricated structures in rule 901:10-2-05 of the Administrative Code must have at a minimum storage volume at the prospective operating level that can also contain adequate storage for a twenty-five year, twenty-four hour storm event and six inches of freeboard and any additional storage required in the MMP.

(5) The manure management plan, the operating record and insect and rodent control plan are incorporated by reference into a general permit to operate. The permittee shall maintain compliance with an approved MMP, the operating record rules and insect and rodent control plan as required under state law.

(6) A facility may be expanded by not more than ten per cent in excess of the design capacity set forth in the current design capacity, provided that in no case during a five year period shall the facility's capacity be increased by more than ten per cent in the aggregate and further, that in no case shall the capacity be increased so as to exceed the number of animal units authorized in the category of the general permit.

(7) New or expanding facilities are required to be inspected by the director or an authorized representative in a timely manner prior to stocking the animals.

(8) A copy of the certificate of coverage ("COC"), general permit, distribution and utilization records, the insect and rodent control plan, the operating record and the MMP shall be maintained at the site office where manure management activities are being conducted for the life of the general permit. These documents shall be kept in good condition and shall be maintained in an orderly fashion.

(C) Operation and maintenance requirements.

(1) The manure storage or treatment facilities and equipment shall be properly maintained at all times.

(2) The manure land application sites and setbacks as required in appendix A of rule 901:10-2-14 of the Administrative Code shall be properly maintained at all times.

(3) The phosphorus and nitrogen application rates shall be maintained as set forth in paragraphs (B) to (E) rule 901:10-2-14 of the Administrative Code. Available water capacity identified in the MMP shall be maintained in accordance with appendix B of rule 901:10-2-14 of the Administrative Code.

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- (4) Unless designed and permitted to do so, domestic and/or industrial wastewater from showers, toilets, sinks, etc. shall not be discharged into the manure storage or treatment facility.
- (5) Disposal of dead animals shall be done in accordance with specified best management practices and rule 901:10-2-15 of the Administrative Code.
- (6) All stormwater conveyances shall be inspected and maintained to keep runoff from the surrounding property and buildings and shall be diverted away from the manure treatment lagoons and/or manure storage ponds to prevent any unnecessary addition to the liquid volume in these structures unless the lagoons and/or ponds are designed for such runoff containment.
- (7) A protective vegetative cover shall be maintained on all disturbed areas (manure treatment lagoon or manure storage pond embankments, berms, pipe runs, erosion control areas, etc.). Emerging vegetation such as trees, shrubs and other woody species shall not be allowed to grow on the dikes or side slopes of manure treatment lagoons or manure storage ponds. Manure treatment lagoon and manure storage pond areas are to be kept mowed and accessible unless these areas are grassed waterways or buffers that manage precipitation runoff and stormwater.
- (8) Management of the manure residuals shall be in accordance with the MMP.
- (9) When removal of manure residuals from the manure storage or treatment facilities is necessary, provisions must be taken to prevent damage.
- (10) Solid materials including, but not limited to, bottles, light bulbs, gloves, syringes or any other solid waste from the facility shall be prevented from entering the manure storage or treatment facility.
- (11) The owner or operator must have at all times: ~~(a)~~adequate manure application and handling equipment on site; ~~(b)~~an agreement to acquire or have use of the necessary equipment; ~~(c)~~a third party applicator capable of providing adequate manure application equipment; or ~~(d)~~a distribution and utilization plan. ~~The equipment must be capable of land applying the manure on the sites specified in the MMP, including compliance with the agronomic rate, available water capacity for the land application sites and incorporation of manure, where required. Records shall be maintained in the operating record as required in rule 901:10-2-16 of the Administrative Code~~
The equipment must be capable of land applying the manure on the sites specified in the MMP, including compliance with the agronomic rate, available water capacity for the land application sites and incorporation of manure, where required. Records shall be maintained in the operating record as required in rule 901:10-2-16 of the Administrative Code

(D) Monitoring and reporting requirements.

- (1) Manure treatment and storage facilities under the control of the owner or operator shall be inspected for evidence of erosion, leakage, damage or discharge. A written chronological record of maintenance and repairs shall be maintained in the operating record and be made readily available during a scheduled inspection of the facility. These records shall also be made available at the request of the director. All repairs shall be completed promptly. The department shall inspect any major structural repairs.
- (2) If not already installed at a facility, a liquid level board or staff gauge or other appropriate device, as approved by the director, shall be installed within sixty days of issuance of the COC under a general

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permit to monitor manure levels. This board or gauge or other appropriate device, as approved by the director, shall have readily visible permanent markings indicating the summation of the residual manure volume and minimum storage or treatment design volume and shall be designated as the "stop pumping" elevation. The liquid level board, staff gauge or other appropriate device, as approved by the director, shall also indicate the elevation corresponding to the summation of the maximum storage volume, residual solids minimum storage, volume, runoff and wash down volumes and manure volume and shall be designated as "start pumping" elevation. Where manure storage ponds are utilized, only a gauge with visible permanent markings indicating when the pump-out begins and freeboard elevations need be installed. Caution must be taken not to damage the integrity of the liner when installing the gauge. Levels shall be recorded in the operating record that must be maintained at the facility, in compliance with the MMP.

(3) Soil testing shall be conducted as described in the MMP on each land application site receiving manure. The results of these tests shall be maintained in the operating record by the owner or operator for a minimum of five years and shall be made available to the director.

(4) An analysis of the manure from the manure storage or treatment facility shall be conducted initially after issuance of the COC and thereafter as described in the MMP. This analysis shall include the parameters listed in the MMP.

(5) Proper records, including maintenance, repairs and the operating record, shall be maintained on site and in chronological and legible form for a minimum of five years. These records shall be readily available for inspection in the operating record.

(E) Emergency response plan.

An emergency response plan must be developed that shall include the following:

- (1) The names and telephone numbers of persons who are identified by the owner or operator as responsible for implementing the plan;
- (2) Areas of the facility where potential spills can occur and their accompanying surface and subsurface drainage points;
- (3) Procedures to be followed in the event of a spill, including an actual or imminent discharge to waters of the state:
 - (a) Actions to contain or manage the spill or discharge;
 - (b) Identification of proper authorities to be contacted;
 - (c) Actions to mitigate any adverse effects of a spill or discharge; and
 - (d) Identification of equipment and cleanup materials to be used in the event of a spill or discharge.
- (4) Procedures for reporting. The owner or operator shall report by telephone to the department as soon as possible, but in no case more than twenty-four hours following first knowledge of the occurrence of the following:

~~(a) (a) The owner or operator shall report by telephone to the department as soon as possible, but in no case more than twenty-four hours following first knowledge of the occurrence of the following:~~

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- ~~(i)~~ (a) The time at which the discharge or spillage occurred, if known, and or was discovered;
- ~~(ii)~~ (b) The approximate amount and characteristics of the discharge or spillage;
- ~~(iii)~~ (c) The receiving waters affected by the discharge or spillage;
- ~~(iv)~~ (d) The circumstances that created the discharge or spillage;
- ~~(v)~~ (e) The names and telephone numbers of the persons who have knowledge of these circumstances;
- ~~(vi)~~ (f) Those steps being taken to clean up the discharge or spillage; and
- ~~(vii)~~ (g) The names and telephone numbers of the persons responsible for the cleanup.

- (5) For any emergency that requires immediate reporting after normal business hours, the owner or operator shall contact the Ohio department of agriculture's emergency telephone number.
- (6) If applicable, the owner or operator shall notify the appropriate local authorities.
- (7) The owner or operator shall also file a written report of the occurrence in letter form within five days following first knowledge of the occurrence unless waived by the director permitting an extension of time. This report shall outline the actions taken or proposed to be taken to correct the problem and to ensure that the problem does not recur.

(F) Inspections.

Any duly authorized officer, employee or representative of the department may inspect the permitted site at any reasonable time upon presentation of credentials and in accordance with reasonable and appropriate biosecurity measures, for the purpose of determining compliance with this permit; may inspect or obtain a copy of any records that must be kept under the terms and conditions of this permit; and may obtain samples of the manure, soil, groundwater or surface water.

(G) General conditions.

- (1) In addition to the general conditions set forth in this paragraph, the owner or operator of an NPDES operation shall comply with the standard terms and conditions set forth in rule 901:10-3-10 of the Administrative Code.
- (2) Upon reasonable cause to believe that any activities pursuant to this permit may cause or contribute any manure, directly or indirectly, to be intermixed with the waters of the state, the department may require any monitoring (including but not limited to groundwater, surface water and soil) necessary to determine the source, quantity, quality and effect of such waste upon the waters of the state. Such monitoring, including its scope, frequency, duration and any sampling, testing and reporting systems, shall meet all applicable requirements, including records maintained in the operating record. The director has the ability to determine that an individual NPDES or general NPDES permit may be required.
- (3) Failure to abide by the conditions and limitations contained in this permit and any COC issued under a general permit may subject the owner or operator to an enforcement action in accordance with Ohio law and may include the requirement to obtain an individual permit, the addition of manure storage or treatment facilities or the addition of land application sites.
- (4) The issuance of a COC under a permit does not excuse the owner or operator from the obligation to

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comply with all applicable statutes, rules, regulations, or ordinances (local, state and federal).

- (5) If animal production is to be suspended or terminated, the owner or operator is responsible for developing, implementing and completing a closure plan in accordance with rule 901:10-2-18 of the Administrative Code which will eliminate the possibility of an illegal discharge, pollution and the potential for environmental degradation to waters of the state and shall be in accordance with applicable closure standards in effect when the closure plan is developed and implemented.

901:10-6-01 Notice.

(A) Notice by publication.

- (1) Notices in general. All notices required or authorized by section 903.09 of the Revised Code shall be published once in a newspaper having general circulation in the county in which the facility is located or proposed to be located. Publication shall be done at least thirty days prior to a public meeting, provided that publication shall be done at least forty-five days prior to a public meeting for any draft permit to install or draft NPDES permit subject to an antidegradation review. Public notice is complete upon publication.

~~{Comment:}~~ Public notice will be given for any draft general permit to be issued by the director. Since general permits are written to cover categories of discharges within a geographic or political area, the director may give one or more notices in newspapers of general circulation for those geographic or political areas identified in the general permit.†

- (2) Additional requirements for NPDES information. The department shall publish a public notice within thirty days regarding receipt of a NPDES permit application and permit to install for which an antidegradation review is applicable. **The purpose of public notice for a draft permit to install and a draft NPDES permit for which an antidegradation review is applicable shall be: to inform other potentially affected persons; to allow for inspection and review of the applications; to indicate whether any of the exclusions or waivers within the antidegradation rules apply to the applications; to instruct interested persons to contact the director within thirty days if they want to be on the interested parties mailing list as described in rule 901:10-6-05 of the Administrative Code for that particular permit to install or NPDES permit application; and to advertise the date, time, and place of any public meeting required under division (C) of section 903.09 of the Revised Code.**

~~(a) (a) The purpose of public notice for a draft permit to install and a draft NPDES permit for which an antidegradation review is applicable shall be: to inform other potentially affected persons; to allow for inspection and review of the applications; to indicate whether any of the exclusions or waivers within the antidegradation rules apply to the applications; to instruct interested persons to contact the director within thirty days if they want to be on the interested parties mailing list as described in rule 901:10-6-05 of the Administrative Code for that particular permit to install or NPDES permit application; and to advertise the date, time, and place of any public meeting required under division (C) of section 903.09 of the Revised Code.~~

- (3) The department shall give public notice of the issuance of a review compliance certificate issued pursuant

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to division (F) of section 903.04 of the Revised Code only to persons who own property that is contiguous to the facility for which the review compliance certificate is issued.

- (4) The director shall publish notice of the issuance of a final permit once in a newspaper of general circulation in the county in which the facility is located.
- (5) The director shall give public notice of the proposed action to deny, suspend, or revoke a permit to install, permit to operate, or NPDES permit, or for any actions pursuant to section 903.17 of the Revised Code.

(B) Notice by mail.

- (1) The director shall mail notice of the issuance of a draft permit and a copy of the draft permit to the applicant or owner or operator and to the board of county commissioners of the county, the board of township trustees of the township, the local board of health and the local soil and water conservation district in which the facility is located or proposed to be located. The director shall also notify owners or operators of public water systems as that term is defined in section 6109.01 of the Revised Code that have a surface water intake structure located within ten miles downstream of the facility or proposed facility described in the draft permit.
 - (2) In addition, if an antidegradation review of a NPDES permit application indicates the potential to lower water quality, the director shall provide notice by mail to the Ohio department of natural resources, the United States fish and wildlife service, any affected local areawide planning agencies and the Ohio department of development.
 - (3) The director shall mail notice of the proposed action to deny, suspend, or revoke a permit to install, permit to operate, or NPDES permit to the applicant or owner or operator and a copy of the proposed action to the board of county commissioners of the county and the board of township trustees of the township in which the facility is located or proposed to be located. The director shall also provide notice of the proposed action to deny, suspend, or revoke a NPDES permit to any other persons that are entitled to notice under the Federal Water Pollution Control Act.
 - (4) Notices shall be mailed by certified mail, return receipt requested, to the person subject thereto. Notices shall state the time and method by which the applicant or permit holder may request public meeting. A statement as to when a final permit will be issued may accompany draft permits.
 - (a) If a draft permit or proposed action is issued with an effective date and the permit is later signed by the director without being changed further, the department need not, at the time of entry, provide notice or a copy of the permit to the person subject thereto.
 - (b) If a draft permit or proposed action is issued without an effective date, and the department later assigns an effective date without changing the action further, the department shall mail notice to the person subject thereto informing the person of the effective date.
 - (5) If the applicable law grants a right to appeal the final permit or order of the director to the environmental review appeals commission, mailings required by this paragraph shall be accompanied by a notice stating the time and method by which the appeal must be filed.
- (C) Notice of a public meeting is not required for the modification of a permit made with the consent of the permittee for the correction of typographical errors.
- (D) The director may also hold a public meeting at the director's discretion, whenever, for example, such a public

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meeting might clarify one or more issues involved in the permit decision.

901:10-6-02 Contents of public notices.

- (A) Applicability. This rule applies to public notices for the issuance of or proposed actions to deny, suspend, modify, or revoke permits to install, permits to operate, and NPDES permits. This rule applies to the issuance of final orders pursuant to section 903.17 of the Revised Code. In addition, this rule applies to public notices for the receipt of applications for NPDES permits including notification of the public of an applicable antidegradation review under section 6111.12 of the Revised Code. Public notices shall include the following information:
- (1) The name, address and telephone number of the office of the Ohio department of agriculture where department files and records pertaining to the proposed action or issuance are located and may be inspected and copied and instructions for persons desiring to obtain additional information, including the NPDES mailing list provided for in rule 901:10-6-05 of the Administrative Code
 - (2) The name and address of the applicant.
 - (3) A brief description of the applicant's activities or operations.
 - (4) The location of the facility and a short description of any discharge indicating whether any discharge is a new or an existing discharge.
 - (5) A concise statement of the draft permit or the proposed action.
 - (6) A statement:
 - (a) That any interested person may submit a written comment on the draft permit and may request a public meeting within thirty days of appearance of public notice in a newspaper in the affected county. A request for a public meeting shall be in writing and shall state the nature of the issues proposed to be raised in the public meeting; and
 - (b) That any person has a right to provide a written or oral statement for the record at the public meeting if a meeting is scheduled; and
 - (c) That one public meeting shall be held prior to issuance of any final permit decision when required by paragraph (C) of rule 901:10-6-04 and may be held where authorized by paragraph (D) of rule 901:10-6-01 of the Administrative Code.
 - (7) In addition, if the public notice is for an NPDES permit application or a draft permit on an NPDES permit the public notice shall contain the following information:

For a NPDES permit and permit to install application subject to an antidegradation review:

~~(a) (a) For a NPDES permit and permit to install application subject to an antidegradation review:~~

~~(i) (a)~~ (a) A statement summarizing the receipt of an application for an NPDES permit where an antidegradation review is required;

~~(ii) (b)~~ (b) The date of issuance of the draft permit;

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~~(iii)~~ (c) A statement on the applicability of an antidegradation review in section 6111.12 of the Revised Code to indicate whether waivers or exclusions of the policy apply or to indicate an evaluation of issues related to lower water quality.

~~(iv)~~ (d) A statement that the draft permit shall become final on an effective date or event specified therein, unless:

~~(a)~~ (i) A public meeting is requested;

~~(b)~~ (ii) The director amends or withdraws the draft permit; or

~~(e)~~ (iii) The draft NPDES permit has been disapproved by the United States environmental protection agency in accordance with rule 901:10-3-06 of the Administrative Code; and

~~(v)~~ (e) A statement on the applicability of any of the requirements determined by the director in accordance with paragraph (D)(2) of rule 901:10-3-01 of the Administrative Code.

(B) Notice of NPDES permit applications to government agencies. The notice required by paragraph (A) of rule 901:10-6-01 of the Administrative Code to be given to state and governmental agencies shall include:

(1) The information required in this rule and may include a copy of such public notices.

(2) A statement that:

(a) An affected state or agency, unless covered by paragraph (B)(2)(b) of this rule, may submit written recommendations to the director and to the regional administrator of the United States environmental protection agency which the director may incorporate into the NPDES permit if issued, and that if the recommendation of the state or agency is not incorporated in the final permit, a written explanation of the director's reasons for not accepting the recommendation will be provided for that state or agency and the regional administrator of the United States environmental protection agency; and

(b) If an army corps of engineers district engineer submits written recommendations to the director advising that anchorage and navigation of any of the waters of the United States would be substantially impaired by the granting of the NPDES permit, the director shall propose to deny the NPDES permit in accordance with division (F) of section 903.09 of the Revised Code, and the applicant shall be so notified. If the army corps of engineers district engineer advised the director that imposing specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation, then the director shall include the specified conditions in the permit.

(3) A copy of the fact sheet and a statement that a copy of the application for an NPDES permit or of the draft NPDES permit, including all ancillary papers, will be provided upon request.

(C) The notice required by paragraph (B) of this rule shall also be given, when applicable, to:

(1) Any agency responsible for an areawide waste treatment management plan pursuant to division (B) of section 208 (2004) of the Federal Water Pollution Control Act.

(2) Any agency responsible for the preparation of a plan pursuant to an approved continuing planning process under division (E) of section 303 (1972) of the Federal Water Pollution Control Act.

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901:10-6-04 Public meetings; close of the public comment period.

- (A) Not later than thirty days after public notice of a draft permit, draft permit modification, or a proposed action to deny, suspend, or revoke a permit, any person may file a request for a public meeting. This paragraph does not apply to amended draft actions or to a NPDES permit application where an antidegradation review is required.
- (B) Public meetings and antidegradation review and NPDES permits.
- (1) Within ninety days of receipt of the application for any permit to install with a NPDES permit, the director shall hold a public meeting where an antidegradation review is required for any category three wetland, a designated outstanding national resource water, outstanding high quality water, state resource water or superior high quality water. The public meeting shall be for the purpose of evaluating issues related to lower water quality.
 - (2) Within ninety days of receipt of the application, the director shall hold a public meeting for any permit to install application and any NPDES permit application where the application indicates that an antidegradation review is required for general high quality waters other than category three wetlands and for limited quality waters, and the director also determines that there is significant public interest. This meeting is held concurrently with the meeting for the draft permit.
- (C) If the director determines that there is significant public interest as described in paragraph (D) of this rule in a draft permit to install, permit to operate, NPDES permit, or modification of any permit, in the antidegradation review described in paragraph (B)(2) of this rule, or in any proposed action to deny, suspend, or revoke a permit, or where required to do so by statute or rule, the director shall hold one public meeting in the county where the facility is located or in a contiguous county. In consideration of an application for issuance of a permit, the director may hold one public meeting prior to issuance of a permit. When allowed by the antidegradation policy, the director shall hold the public meeting on antidegradation issues concurrently with any public meeting held for the draft permit.
- ~~Comment:~~ The director may take other, reasonable steps to inform the public about draft permits, including fact sheets, brochures or other informal sessions with the public and the permittee.‡
- ~~Comment:~~ The director may include representatives from other government departments, offices and agencies to participate in public meetings and otherwise invite these persons to provide pertinent information to the public.‡
- (D) Significant public interest means statements made in writing by twenty or more persons expressing interest in the draft permit before the director or in the antidegradation review and requesting a public meeting. Significant public interest may also include expressed interest by one or more public officials.
- (E) Public notice of the public meeting shall be published at least thirty days prior to the public meeting in a newspaper of general circulation and shall include:
- (1) The address and telephone number of the office at the Ohio department of agriculture where department files and records pertaining to the proposed action or issuance are located and may be inspected and copied and instructions for persons desiring to obtain additional information, including the NPDES mailing list.
 - (2) The name and address of the applicant.

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- (3) The location of the facility and a short description of each existing or proposed discharge point and the name(s) of the receiving water(s).
- (4) The date of issuance of the notice of the draft permit.
- (5) The time, date, and location of the public meeting if applicable.
- (6) A concise statement of the issues raised by those requesting a public meeting.
- (7) A statement:
 - (a) That any interested person may appear and present written and/or oral statements, in person or by a representative.
 - (b) That the purpose of the meeting is to obtain additional information that will be limited to the criteria that are applicable to the permit application that is the subject of the public meeting and will be considered by the director prior to the director's taking final action on the draft permit under consideration.
 - (c) That a transcript, recording or other complete record will be made of the public meeting.
- (F) In any public meeting, the director may appoint a presiding officer to conduct the meeting. The officer shall state at the beginning of the meeting the manner in which the meeting will be conducted, time limits for testifying, and any other procedures for conducting the meeting. Procedures and time limits may vary according to the number of people wishing to testify, the time the meeting starts, weather conditions and other situations affecting the length of the meeting. On the date and at the time and place specified in the notice, the public meeting shall be held at which any person:
 - (1) May appear and be heard in person or by a representative, or both;
 - (2) May present statements orally or in writing, or both. All comments whether written or oral shall be considered equally in making a final decision, provided that comments are submitted with the name and address of the person presenting the statements for the record.
- (G) Any person requesting time to make an oral comment at the meeting must register their name and address prior to the beginning of the meeting. Persons shall be called to provide a statement for the record in the order of registration, unless the presiding officer determines otherwise.
- (H) Information presented by any person shall be limited to the criteria and information that are applicable to the permit application that is the subject of the public meeting. The officer may rule out of order any person who does not address comments to the matter that is the subject of the public meeting.
- (I) Persons attending the public meeting are authorized to tape or videotape the proceedings provided the following requirements are met:
 - (1) The hearing officer is notified at least twenty-four hours prior to the start of the public meeting unless prior notice is waived by the hearing officer; and
 - (2) The public meeting is not interrupted or disturbed.
- (J) Close of public comment period.

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- (1) Persons, including applicants, who believe any condition of a draft permit is inappropriate or that the director's tentative decision to deny, issue, or terminate a permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the record in the same action, or consist of state or federal statutes and regulations, or other generally available reference materials. Commenters shall make supporting materials not already included in the record available to the director.
- (2) At the time that any final permit action is issued the director shall issue a response to comments or "responsiveness summary."
- (3) No final action shall be issued until after the director has considered the responsiveness summary . The responsiveness summary shall briefly describe and respond to all significant comments raised during the public comment period or during the public meeting on the draft permit action or, in the case of a NPDES permit with antidegradation applicability, the permit application. The responsiveness summary shall specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reasons for the change.